
STATUTORY INSTRUMENTS

1979 No. 591**SOCIAL SECURITY****The Social Security (Contributions) Regulations 1979**

<i>Made - - - -</i>	<i>23rd May 1979</i>
<i>Laid before Parliament</i>	<i>11th June 1979</i>
<i>Coming into Operation</i>	<i>6th July 1979</i>

ARRANGEMENT OF REGULATIONS**PART I****GENERAL**

1. Citation, commencement and interpretation.

PART II**ASSESSMENT OF EARNINGS-RELATED CONTRIBUTIONS**

2. Earnings periods.
3. Earnings period for earnings normally paid or treated as paid at regular intervals.
4. Earnings period for earnings normally paid otherwise than at regular intervals and not treated as paid at regular intervals.
5. Earnings period for sums deemed to be earnings by virtue of regulations made under section 18 of the Social Security (Miscellaneous Provisions) Act 1977.
6. Treatment of earnings paid otherwise than at regular intervals.
7. Lower and upper earnings limits.
8. Equivalent amounts.
9. Calculation of earnings-related contributions.
10. General provisions as to aggregation.
11. Aggregation of earnings paid in respect of separate employed earner's employments under the same employer.
12. Aggregation of earnings paid in respect of different employed earner's employments by different persons and apportionment of contribution liability.
13. Apportionment of single payment of earnings in respect of different employed earner's employments by different secondary contributors.
14. Change of earnings period.
15. Holiday payments.
16. Joint employment of husband and wife.

17. Annual maximum.
18. Calculation of earnings.
19. Payments to be disregarded.
20. Exception of persons over pensionable age from Class 1 liability.
21. Abnormal pay practices.
22. Practices avoiding or reducing liability.

PART III

EXCEPTION FROM LIABILITY FOR CLASS 2 CONTRIBUTIONS, AND PROVISIONS RELATING TO CLASS 3 CONTRIBUTIONS, APPROPRIATION, REALLOCATION AND REFUND OF CONTRIBUTIONS (OTHER THAN CLASS 4 CONTRIBUTIONS)

23. Exception from liability for Class 2 contributions.
24. Applications for, and duration and cancellation of, certificates of exception.
25. Earnings for the purposes of certificates of exception.
26. Certificates of exception—exception from liability for, and entitlement to pay, Class 2 contributions.
27. Class 3 contributions.
28. Precluded Class 3 contributions.
29. Class 3 contributions not paid within prescribed periods.
30. Appropriation of Class 3 contributions.
31. Disposal of contributions not properly paid.
32. Return of contributions.
33. Return of Class 1 contributions paid at the non-contracted-out rate instead of at the contracted-out rate.
34. Return of precluded Class 3 contributions.
35. Calculation of return of contributions.
36. Crediting of Class 3 contributions.
37. Reallocation of contributions for benefit purposes.

PART IV

LATE PAID AND UNPAID CONTRIBUTIONS

38. Treatment for purpose of contributory benefit of late paid contributions under the Act.
39. Treatment for the purpose of any contributory benefit of late paid or unpaid primary Class 1 contributions where there was no consent, connivance or negligence by the primary contributor.
40. Voluntary Class 2 contributions not paid within permitted period.
41. Treatment for the purpose of any contributory benefit of contributions under the Act paid late through ignorance or error.
42. Treatment for the purpose of any contributory benefit of contributions paid under an arrangement.
43. Payment of contributions after death of contributor.

PART V

COLLECTION OF CONTRIBUTIONS (OTHER THAN CLASS 4 CONTRIBUTIONS)
AND RELATED MATTERS

44. Application for allocation of national insurance number.
45. Notification of national insurance numbers to secondary contributors.
46. Collection and recovery of earnings-related contributions.
47. Direct collection and recovery of earnings-related contributions.
48. Special provisions relating to primary Class 1 contributions.
49. Exception in relation to earnings to which regulation 48 applies.
50. Special provisions relating to culpable primary contributors and to secondary contributors or, as the case may be, employers exempted by treaty etc., from enforcement of the Act or from liability under it.
51. Provisions as to application for, and custody of, contribution cards etc.
52. Issue and currency of contribution cards.
53. Disposal of contribution cards.
54. Method of, and time for, payment of Class 2 and Class 3 contributions etc.
55. Deduction of contributions from pensions etc.—prescribed enactments and instruments under which payable.
56. Contribution cards not to be assigned, defaced, etc.

PART VI

CONTRIBUTION STAMPS

57. Adaptation of Enactments.

PART VII

CLASS 4 CONTRIBUTIONS

58. Exception from Class 4 liability of persons over pensionable age and persons not resident in the United Kingdom.
59. Exception of divers and diving supervisors from liability for Class 4 contributions.
60. Exception of persons under the age of 16 from liability for Class 4 contributions.
61. Exception from Class 4 liability by reference to Class 1 contributions paid on earnings chargeable to income tax under Schedule D.
62. Deferment of Class 4 liability where such liability is in doubt.
63. Application for deferment of Class 4 liability.
64. General conditions for application for, and issue of, certificates of exception and deferment.
65. Revocation of certificates of exception and deferment.
66. Calculation of liability for, and recovery of, Class 4 contributions after issue of certificate of deferment.
67. Annual maximum of Class 4 contributions due under section 9(1) of the Act.

68. Disposal of Class 4 contributions under section 9(1) of the Act which are not due.
69. Repayment of Class 4 contributions under section 9(1) of the Act which are not due.
70. Disapplication of section 47 of the Finance (No. 2) Act 1975 to repayments of Class 4 contributions paid under section 9(1) of the Act.
71. Class 4 liability of earners treated as self-employed earners who, but for such treatment, would be employed earners.
72. Notification of insurance number and recording of category letter on deduction card.
73. Calculation of earnings for the purposes of special Class 4 contributions.
74. Notification and payment of special Class 4 contributions due.
75. Recovery of deferred Class 4 and special Class 4 contributions after appeal, claim or further assessment under the Income Tax Acts or after the raising of a Secretary of State's question.
76. Annual maximum of special Class 4 contributions.
77. Disposal of special Class 4 contributions paid in excess or error.
78. Return of special Class 4 contributions paid in excess or error.
79. Husband and wife.
80. Service of notice by post.

PART VIII

SPECIAL CLASSES OF EARNERS

CASE A—AIRMEN

81. Interpretation.
82. Modification of employed earner's employment.
83. Application of the Act and regulations.
84. Special transitional provision.

CASE B—CONTINENTAL SHELF

85. Application to employment in connection with continental shelf of Part I of the Act and so much of Part IV thereof as relates to contributions.

CASE C—MARINERS

86. Interpretation.
87. Conditions of domicile or residence.
88. Modification of employed earner's employment.
89. Modification of section 4(6)(b) of the Act.
90. Earnings period for mariners.
91. Calculation of earnings-related contributions for mariners.
92. Change of circumstances etc. affecting calculation of mariner's earnings for contributions purposes.

93. Prescribed secondary contributors.
94. Payments to be disregarded.
95. Special payments to mariners after terminal payment.
96. Application of the Act and regulations.
97. Special provisions concerning earnings-related contributions.
98. Modification in relation to share fishermen of Part I of the Act and so much of Part IV thereof as relates to contributions.

CASE D—MARRIED WOMEN AND WIDOWS

99. Interpretation.
100. Elections by married women and widows.
101. Duration of effect of election.
102. Continuation of elections under the former regulation 91.
103. Continuation of elections on widowhood.
104. Reduced rate.
105. Class 3 contributions.
106. Certificates of election.
107. Special transitional provisions consequent upon passing of Pensions Act.
108. Deemed election of married women and widows excepted from contribution liability under former principal Act.
109. Special transitional provisions regarding deemed elections.
110. Application of regulations 99 to 107 to elections and revocation of elections deemed made under regulations 108 and 109.
111. Savings.
112. Modifications of the Act.

CASE E—MEMBERS OF THE FORCES

113. Establishments and organisations of which Her Majesty's forces are taken to consist.
114. Treatment of serving members of the forces as present in Great Britain.
115. Reduction of rate of Class 1 contributions.
116. Treatment of contributions paid after due date.
117. Special provisions concerning earnings-related contributions.
118. Application of the Act and regulations.

CASE F—RESIDENCE AND PERSONS ABROAD

119. Conditions as to residence or presence in Great Britain.
120. Payment of contributions for periods abroad.
121. Class 2 and Class 3 contributions for periods abroad.
122. Conditions of payment of Class 2 or Class 3 contributions for periods abroad.
123. Persons outside Great Britain on the appointed day.

PART IX

GENERAL (CONTRIBUTIONS) TRANSITIONAL PROVISIONS

124. Contribution week immediately preceding the appointed day.
125. Provisions relating to remuneration received on or after the appointed day in respect of employment before that day.
126. Earnings period for contributions payable under regulation 125(2) of these regulations in respect of employment which ended before the appointed day.
127. Contributions treated as paid under the former principal Act.
128. Return of insurance cards and emergency cards.
129. Recovery of unpaid contributions.
130. Appropriation and savings.

PART X

MISCELLANEOUS PROVISIONS

131. Treatment of contribution week falling into 2 income tax years.
132. Breach of regulations.
133. Reduction of rate of secondary Class 1 contributions payable in respect of registered dock workers.
134. Modification of section 134(4) of the Act.
135. Northern Ireland.
136. Revocation and general savings.

SCHEDULES

SCHEDULE 1—Containing the provisions of the Income Tax (Employments) Regulations 1973 as they apply to earnings-related contributions under the Social Security Act 1975.

SCHEDULE 2

Part I—Adaptation of Stamp Duties Management Act 1891.

Part II—Adaptation of Post Office Act 1953.

SCHEDULE 3

Part I—Prescribed establishments and organisations for purposes of section 128(3) of the Act.

Part II—Establishments and organisations of which Her Majesty's forces shall not consist.

SCHEDULE 4—Savings.

SCHEDULE 5—Revocations.

The Secretary of State for Social Services in conjunction with the Treasury in so far as relates to matters with regard to which the Treasury have so directed^(a) and with the concurrence of the Inland Revenue in so far as their concurrence is required, in exercise of powers conferred upon him by sections 1(6), 3, 4(2)(b), (5), (6) and (7), 7(5) and (6), 8(1) and (2), 9(7), (8) and (9), 10(1)

(a) See Social Security Act 1975 (c. 14.), section 166(5).

and (2), 11, 13(4), 128(2) and (3), 129(1) and (2), 130, 131, 132, 134(6) and 146(5) of, and paragraphs 1, 2, 3, 4(a), (c) and (d), 5, 6 and 8 of Schedule 1 to, the Social Security Act 1975(a), section 123 of the Social Security (Northern Ireland) Act 1975(b), paragraphs 3, 6, 7 and 9 of Schedule 3 to the Social Security (Consequential Provisions) Act 1975(c) and sections 1, 3(2), 5, 27(3) and 63(1) of the Social Security Pensions Act 1975(d) and of all other powers enabling him in that behalf and for the purpose only of consolidating the regulations hereby revoked, hereby makes the following regulations which are not subject to the requirement for prior reference to the National Insurance Advisory Committee (e) or to the requirement for prior parliamentary approval(f).

PART I
GENERAL

Citation, commencement and interpretation

1.—(1) These regulations may be cited as the Social Security (Contributions) Regulations 1979 and shall come into operation on 6th July 1979.

(2) In these regulations, unless the context otherwise requires—

“the Act” means the Social Security Act 1975;

“aggregation” means the aggregating and treating as a single payment under paragraph 1(1) of Schedule 1 to the Act of two or more payments of earnings, and “aggregated” shall be construed accordingly;

“airman” has the meaning assigned to it in regulation 81;

“the appointed day” means 6th April 1975;

“apportionment” means the apportioning under paragraph 1(2) of Schedule 1 to the Act to one or more employers of a single payment of earnings made to or for the benefit of an employed earner in respect of two or more employments, or, as the case may be, the apportioning under paragraph 1(3) of that Schedule of contribution liability between two or more employers in respect of earnings which have been aggregated under paragraph 1(1)(b) of that Schedule, and in either case “apportioning” and “apportioned” shall be construed accordingly;

“British aircraft” has the meaning assigned to it in regulation 81;

“British ship” has the meaning assigned to it in regulation 86;

“contracted-out employment” has the same meaning as in section 30(1) of the Pensions Act;

“contracted-out percentage” has the meaning assigned to it in section 27(2) of the Pensions Act;

“contracted-out rate” means in relation to Class 1 contributions payable in respect of earnings paid to or for the benefit of an earner in contracted-out employment the percentages for the time being applying in section 27 of the Pensions Act for the calculation of the amount of those contributions;

(a) 1975 c. 14. (b) 1975 c. 15. (c) 1975 c. 18. (d) 1975 c. 60.
(e) See section 139(1) and (2) of, and paragraph 20 of Schedule 15 to, the Social Security Act 1975.
(f) See section 167(2)(b) of the Social Security Act 1975.

- “contribution card” means a card issued in accordance with Part V of these regulations for the purposes of the payment of contributions by means of stamps affixed to the card;
- “contribution week” means a period of 7 days beginning with midnight between Saturday and Sunday;
- “due date” in Part IV of these regulations means in relation to any contribution the due date for payment of that contribution, which date, for the purpose of a contribution which a person is entitled but not liable to pay, shall be treated as the date of the last day of the year in respect of which it is paid;
- “earnings period” means the period prescribed in regulation 2;
- “earnings-related contributions” means contributions payable under the Act in respect of earnings paid to or for the benefit of an earner in respect of employed earner’s employment;
- “the former regulation 91” and “the former regulation 94” in Case D of Part VIII of these regulations mean respectively regulation 91 and regulation 94 of the Social Security (Contributions) Regulations 1975(a) before section 3(1) of the Pensions Act (married women and widows) came into force and sections 5(3) and 130(2) of the Act (Class 1 reduced rate and married women and widows) were repealed;
- “foreign-going ship” } have the meaning assigned respectively to those
 “home-trade ship” } expressions in regulation 86;
- “income tax month” has the meaning assigned to it in Schedule 1, Regulation 2(1);
- “inspector” includes any person having the powers of an inspector under section 144(2) of the Act;
- “local office” means an office appointed by the Secretary of State as a local office for the purposes of the Act or of these regulations;
- “managing owner” } have the meaning assigned respectively to those
 “mariner” } expressions in regulation 86;
- “month” means an income tax month;
- “national insurance number” means the national insurance number allocated within the meaning of regulation 44;
- “non-contracted-out employment” means employed earner’s employment which is not contracted-out employment;
- “non-contracted-out rate” means in relation to Class 1 contributions payable in respect of earnings paid to or for the benefit of an earner in non-contracted-out employment the percentages for the time being specified in section 4(6) of the Act for the calculation of the amount of those contributions;
- “normal percentage” has the meaning assigned to it in section 27(2) of the Pensions Act;
- “owner” for the purposes of Case C of Part VIII of these regulations has the meaning assigned to that expression in regulation 86;
- “passenger” } have the meaning assigned respectively to those expres-
 “pay period” } sions in regulation 86;

(a) S.I. 1975/492.

- “the Pensions Act” means the Social Security Pensions Act 1975;
- “personal death benefit” }
 “Personal Injuries Scheme” } have the meaning assigned respectively
 to those expressions in regulation 99;
- “profits or gains” for the purposes of Part VII of these regulations means profits or gains which, subject to the provisions of Schedule 2 to the Act, are chargeable to income tax under Case I or Case II of Schedule D;
- “qualifying widow” in Case D of Part VIII of these regulations has the meaning assigned to it in regulation 100(1) and (8);
- “radio officer” has the meaning assigned to that expression in regulation 86;
- “reduced rate” means the rate specified in regulation 104;
- “regular interval” for the purposes of regulations 3, 4 and 6 includes only such interval as is in accordance with an express or implied arrangement between the employed earner and the secondary contributor as to the intervals at which payments of earnings normally fall to be made, being intervals of substantially equal length;
- “secondary contributor” means the person who, in respect of earnings from employed earner’s employment, is, or, but for the provisions of the Act relating to the lower earnings limit, would be liable to pay a secondary contribution under section 4 of the Act;
- “Service Pensions Instrument” }
 “1914-1918 War Injuries Scheme” } have the meaning assigned respectively
 to those expressions in regulation 99;
- “serving member of the forces” means a person (not being a person mentioned in Part II of Schedule 3 to these regulations) who, being over the age of 16, is a member of any establishment or organisation in Part I of Schedule 3 to these regulations (being a member who gives full pay service) but does not include any such person while absent on desertion;
- “share fisherman” has the meaning assigned to it in regulation 86;
- “ship or vessel” for the purposes of Case C of Part VIII of these regulations has the meaning assigned to it in regulation 86;
- “stamp” has the meaning assigned to it in Schedule 2 to these regulations;
- “standard rate” means the rate specified in section 4(6) of the Act for primary Class 1 contributions;
- “training” means full-time training at a course approved by the Secretary of State;
- “voyage period” has the meaning assigned to that expression in regulation 86;
- “week” means tax week, except that for the purposes of the provisions of Case C of Part VIII of these regulations “week” and “weekly” have the meanings assigned to them in regulation 86;
- “year” means tax year;
- “year of assessment” has the meaning assigned to it in section 526 of the Income and Corporation Taxes Act 1970(a).

PART II

ASSESSMENT OF EARNINGS-RELATED CONTRIBUTIONS

Earnings periods

2. The amount, if any, of earnings-related contributions payable in respect of earnings paid to or for the benefit of an earner in respect of an employed earner's employment shall, subject to the provisions of regulations 6 and 9 to 15 of these regulations, be assessed on the amount of such earnings paid, or treated as paid, in the earnings period specified in regulation 3, 4 or 5 of these regulations.

Earnings period for earnings normally paid or treated as paid at regular intervals

3.—(1) Where any part of such earnings as are specified in the immediately preceding regulation is normally paid or treated under regulation 6 of these regulations as paid at regular intervals, the earnings period in respect of those earnings shall, subject to the provisions of paragraphs (2), (3) and (4) of this regulation, be the period—

- (a) the length of which is—
 - (i) where the interval is 7 days or more, the length of the shortest interval at which any such part is paid or treated as paid;
 - (ii) where the interval is a period of less than 7 days, a week; and
- (b) which is one of a succession of periods of the same length beginning in the case of the first such period in any year on the first day of that year, and in the case of each subsequent period immediately upon the ending of the period which last precedes it.

(2) Without prejudice to the provisions of sub-paragraph (b) of the last preceding paragraph, if the Secretary of State is satisfied that the greatest part of the earnings specified in that paragraph is normally paid at intervals of greater length than the shortest and notifies the earner and the secondary contributor accordingly, the length of that longer interval shall thereafter be the length of the earnings period in place of that specified in sub-paragraph (a)(i) of that paragraph.

(3) Where in any year there is a period between the end of the last earnings period of normal length and the beginning of the next year, the period first mentioned in this paragraph shall itself be treated as an earnings period of normal length.

(4) Where—

- (a) the employment in respect of which the earnings are paid—
 - (i) has ended, and
 - (ii) is one in which, during its continuance, earnings were paid or treated under regulation 6 of these regulations as paid at a regular interval, and
- (b) after the end of the employment a payment of earnings is made by way of addition to a payment made before the end of the employment, the earnings period in respect of that additional payment of earnings shall, unless the provisions of the said regulation 6 apply to that payment, be a period equal to the length of a week.

Earnings period for earnings normally paid otherwise than at regular intervals and not treated as paid at regular intervals

4. Subject to regulation 3(4) or 5 of these regulations, where earnings are paid to or for the benefit of an earner in respect of an employed earner's employment, but no part of those earnings is normally paid or treated under regulation 6 of these regulations as paid at regular intervals, the earnings period in respect of those earnings shall, in respect of any particular payment thereof, be a period of one of the following lengths—

- (a) in the case of the employment being one in which—
 - (i) services are to be rendered on one or more occasions and on each occasion within a fixed period but, subject to that, in the earner's own time and at his convenience, and
 - (ii) the earnings to be paid are by reference to the services rendered on each occasion,
 the length of the fixed period or a week, whichever is the longer;
- (b) in any other case—
 - (i) the length of the period of that part of the employment for which the earnings are paid or a week, whichever is the longer; or, where it is not reasonably practicable to determine that period,
 - (ii) the length of the period from the date of the last preceding payment of earnings in respect of the employment (or, if there has been no such payment, from the date on which the employment began) to the date of the particular payment (or, where that date is after the end of the employment, the date on which the employment ended), so however that where the period so calculated would be of a length less than that of a week, the earnings period shall be of a length equal to that of a week.

Earnings period for sums deemed to be earnings by virtue of regulations made under section 18 of the Social Security (Miscellaneous Provisions) Act 1977

5. Where any sum or amount is deemed to be earnings by virtue of any regulations made under section 18 of the Social Security (Miscellaneous Provisions) Act 1977(a)—

- (a) the earnings period in respect of any payment of those earnings shall be—
 - (i) in the case of any sum to which section 18(2)(a) or (b) of the said Act refers, the period in respect of which the sum is paid;
 - (ii) in the case of any sum (and any amount treated as related to such sum by virtue of any regulations made under section 18 as aforesaid) to which section 18(2)(c) or (d) of the said Act refers, the period to which the sum relates by virtue of the order as referred to in the said section 18(2)(c) or (d) or a week, whichever is the longer;
 - (iii) in the case of any sum (and any amount treated as related to such sum by virtue of any regulations made under section 18 as aforesaid) to which section 18(2)(e) of the said Act refers, the protected period (as referred to in section 101 of the Employment Protection Act 1975(b)) or, as the case may be, that part of it in

respect of which the sum is paid, or a week whichever is the longer :

- (b) contributions paid in respect of such earnings shall, if the employed earner so requests—
 - (i) where the earnings period as aforesaid falls wholly in a year other than the year in which they are paid, be treated as paid in respect of the year in which the earnings period falls; or
 - (ii) where the earnings period as aforesaid falls partly in the year in which they are paid and partly in one or more other years, be treated as paid proportionately in respect of each of the years in which the earnings period falls; or
 - (iii) where the earnings period as aforesaid falls wholly in two or more years other than the year in which they are paid, be treated as paid proportionately in respect of each of the years in which the earnings period falls.

Treatment of earnings paid otherwise than at regular intervals

6.—(1) Subject to the provisions of paragraphs (2) and (3) of this regulation, for the purposes of assessing earnings-related contributions—

- (a) if on any occasion a payment of earnings which would normally fall to be made at a regular interval is made otherwise than at that regular interval, it shall be treated as if it were a payment made at that regular interval;
- (b) where payments of earnings are made at irregular intervals which secure that one and only one payment is made in each of a succession of periods consisting of the same number of days, weeks or calendar months, those payments shall be treated as if they were payments made at the regular interval of one of those periods of days, weeks or, as the case may be, calendar months;
- (c) where payments of earnings, other than such as are specified in the last preceding sub-paragraph, are made in respect of regular intervals, but otherwise than at regular intervals, each such payment shall be treated as made at the regular interval in respect of which it is due.

(2) Where under the foregoing provisions of this regulation a payment of earnings is treated as made at a regular interval, it shall for the purposes of assessment under these regulations of earnings-related contributions also be treated as paid—

- (a) in a case falling within the provisions of paragraph (1)(a) of this regulation, on the date on which it would normally have fallen to be made;
- (b) in any other case, on the last day of the regular interval at which it is treated as paid.

(3) Except only for the purposes of aggregation under paragraph 1 of Schedule 1 to the Act, the foregoing provisions of this regulation shall not apply where by virtue thereof a payment made in one year would be treated as made in another.

Lower and upper earnings limits

7. For the purposes of section 4(1) of the Act (Class 1 contributions-incidence), for the year which begins on 6th April 1979 the lower and upper earnings limits for that year shall be respectively £19.50 and £135.00.

Equivalent amounts

8.—(1) The equivalent amounts for the purposes of section 4(2)(b) and (6) of the Act and section 27(3) of the Pensions Act (prescribed equivalent amounts for lower and upper earnings limits in case of employed earners paid otherwise than weekly) shall be determined in accordance with the following provisions of this regulation.

(2) The respective equivalent amounts shall be—

- (a) where the earnings period is a multiple of a week, the amounts calculated by multiplying each of the said limits by the corresponding multiple;
- (b) where the earnings period is a month, the amounts calculated by multiplying each of the said limits by $4\frac{1}{3}$;
- (c) where the earnings period is a multiple of a month, the amounts calculated by applying sub-paragraph (b) of this paragraph and multiplying each product by the corresponding multiple;
- (d) in any other case, the amounts calculated by dividing each of the said limits by 7 and multiplying each quotient by the number of days in the earnings period concerned.

(3) Each of the calculations prescribed in sub-paragraphs (b) and (d) of the last preceding paragraph shall be to the nearest £0.01, and any amount of £0.005 or less shall be disregarded.

Calculation of earnings-related contributions

9.—(1) Subject to the provisions of paragraphs (3) and (4) of this regulation, earnings-related contributions shall be calculated in accordance with the following provisions of this paragraph—

- (a) primary and secondary contributions under section 4 of the Act (Class 1 contributions) and any primary and secondary contributions at the normal percentage and at the contracted-out percentage shall each be calculated separately; and
- (b) each such calculation shall be to the nearest £0.01 and any amount of £0.005 or less shall be disregarded.

(2) In the alternative, but subject to the provisions of paragraphs (3) to (5) of this regulation, the contributions specified in the last preceding paragraph may be calculated in accordance with the appropriate scale prepared by the Secretary of State.

(3) Where the amount of earnings to which the appropriate scale is to be applied does not appear in the scale, the amount of contributions payable shall be calculated by reference to the next smaller amount of earnings in the appropriate column in the scale.

(4) Where a scale would, but for the period to which it relates, be appropriate and the earnings period in question is a multiple of the period in that scale, the scale shall be applied by dividing the earnings in question so as to obtain the equivalent earnings for the period to which the scale relates and multiplying the amount of contributions shown in the scale as appropriate to those equivalent earnings by the same factor as the earnings were divided.

(5) Unless the Secretary of State agrees to the contrary, all the contributions payable in a year in respect of the earnings paid to or for the benefit of an earner in respect of his employed earner's employment or, where he has more than one such employment and the earnings therefrom are aggregated under paragraph 1(1) of Schedule 1 to the Act, in respect of those employments, shall be calculated either in accordance with paragraph (1) or in accordance with paragraph (2) of this regulation but not partly in accordance with one and partly in accordance with the other of those paragraphs.

General provisions as to aggregation

10. Where on one or more occasions the whole or any part of a person's earnings in respect of employed earner's employment is not paid weekly (whether or not it is treated for the purpose of earnings-related contributions as paid weekly), paragraph 1 of Schedule 1 to the Act (determination of the earnings-related contributions payable in any income tax week by the aggregation of separate payments and the apportionment of single payments in certain cases) shall have effect as if for the references therein to "week" there were substituted references to "earnings period".

Aggregation of earnings paid in respect of separate employed earner's employments under the same employer

11. For the purposes of earnings-related contributions, where an earner is concurrently employed in more than one employed earner's employment under the same employer the earnings paid to or for the benefit of the earner in respect of those employments shall not be aggregated if such aggregation is not reasonably practicable because the earnings in the respective employments are separately calculated.

Aggregation of earnings paid in respect of different employed earner's employments by different persons and apportionment of contribution liability

12.—(1) For the purposes of determining whether earnings-related contributions are payable in respect of earnings paid to or for the benefit of an earner in a given earnings period and, if so, the amount of the contributions, where in that period earnings in respect of different employed earner's employments are paid to or for the benefit of the earner—

- (a) by different secondary contributors who in respect of those employments carry on business in association with each other and the amount of the earnings paid in respect of one or more of those employments is less than the current lower earnings limit (or its equivalent); or
- (b) by different employers, of whom one is by virtue of the provisions of Schedule 3 to the Social Security (Categorisation of Earners)

Regulations 1978(a), treated as the secondary contributor in respect of each of those employments; or

- (c) by different persons, in respect of work performed for those persons by the earner in those employments and in respect of those earnings, some other person is by virtue of the provisions of the said Schedule 3 treated as the secondary contributor,

the earnings paid in respect of each of the employments referred to in this paragraph shall, unless in a case falling under sub-paragraph (a) of this paragraph it is not reasonably practicable to do so, be aggregated and treated as a single payment of earnings in respect of one such employment.

(2) Where, under the provisions of the last preceding paragraph, earnings are aggregated, liability for the secondary contributions payable in respect of those earnings shall be apportioned between the secondary contributors in such proportions as they shall agree amongst themselves, or, in default of agreement, in the proportions which the earnings paid by each bear to the total amount of the aggregated earnings.

Apportionment of single payment of earnings in respect of different employed earner's employments by different secondary contributors

13. Where any single payment of earnings is made in respect of two or more employed earner's employments under different secondary contributors, liability for earnings-related contributions shall be determined by apportioning the payment as follows—

- (a) where the secondary contributors are, in respect of those employments, carrying on business in association with each other, to the secondary contributor who makes the payment;
- (b) where the secondary contributors are not so carrying on business in association with each other, to each of those secondary contributors in the proportion which the earnings due in respect of that secondary contributor's employment bears to the total of the single payment.

Change of earnings period

14.—(1) The provisions of this regulation apply where, by reason of a change in the regular interval at which any part of an earner's earnings is paid or treated as paid in respect of employed earner's employment (hereinafter referred to as "the regular interval of payment"), that person's earnings period in any employment or employments under the same secondary contributor is, or is in the process of being changed.

(2) In this regulation—

- (a) the regular interval of payment which has been discontinued is referred to as "the old interval"; the interval which has, or is to, become the regular interval of payment is referred to as "the new interval";
- (b) the earnings period determined according to the old interval is referred to as "the old period"; that determined according to the new interval is referred to as "the new period";

(a) S.I. 1978/1689.

- (c) reference to payment means payment of earnings actually made or, as the case may be, treated under regulation 6 of these regulations as made, at an interval or date; and
- (d) “date of change” means the date on which the first payment of earnings at the new interval is made.

(3) Subject to the provisions of paragraph (4) of this regulation, in relation to any payments made on or after the date of change the earnings period shall be determined in accordance with the new interval.

(4) Where the new period is longer than the old period and during the first new period any payment has also been made at the old interval, the earnings-related contributions payable on any payment made on or after the date of change shall not exceed in amount the total which would have been payable if all the payments during the new period had been made at the new interval.

Holiday payments

15. Where as respects any employed earner’s employment, a payment of earnings includes a payment in respect of a period of holiday of a week or a multiple of a week, for the purposes of calculating the earnings-related contributions payable in respect of that payment of earnings—

- (a) the earnings period may be determined in accordance with the length of the interval in respect of which such payment is made; and in that case,
- (b) the provisions of regulation 6 of these regulations shall not apply.

Joint employment of husband and wife

16. For the purposes of earnings-related contributions, where a husband and wife are jointly employed in employed earner’s employment and earnings in respect of that employment are paid to them jointly the amount of the earnings of each shall be calculated upon the same basis as that upon which those earnings are calculated for the purposes of income tax and, in the absence of such calculation, upon such basis as may be approved by the Secretary of State.

Annual maximum

17.—(1) For the purposes of section 11(1) and (2) of the Act (power to prescribe maximum amounts of contributions and refund of excess) where an earner is employed in more than one employment but without prejudice to the earner’s liability in the first instance for the full amounts payable apart from this regulation, liability in any year for primary Class 1 contributions, or, where both Class 1 and Class 2 contributions are payable by an earner in any year, for both primary Class 1 contributions and Class 2 contributions shall not exceed an amount equal to 53 primary Class 1 contributions at the maximum standard rate.

(2) For the purpose only of determining the extent of an earner’s liability for contributions under the last preceding paragraph, the amount of any

primary Class 1 contributions paid at a rate less than the standard rate shall be treated as equal to the amount of any primary Class 1 contributions payable at the standard rate on the same amount of earnings.

(3) In this regulation the expression "contributions at the maximum standard rate" means primary Class 1 contributions payable at the standard rate in respect of weekly earnings of an amount equal to the upper earnings limit for the time being.

Calculation of earnings

18. For the purposes of earnings-related contributions the amount of a person's earnings shall, subject to the provisions of the next succeeding regulation, be calculated on the basis of that person's gross earnings from the employment, or, as the case may be, employments concerned.

Payments to be disregarded

19.—(1) For the purposes of earnings-related contributions, there shall be excluded from the computation of a person's earnings in respect of any employed earner's employment any payment in so far as it is—

- (a) a payment on account of a person's earnings in respect of such employment and comprises or represents, and does not exceed in amount, sums which have previously been included in his earnings for the purposes of his assessment of earnings-related contributions;
- (b) a payment in respect of a period of holiday, where the sum paid is derived directly or indirectly from a fund to which more than one secondary contributor contributes and the management and control of which are not vested in those secondary contributors, or where the person making the payment is entitled to be reimbursed from such a fund;
- (c) a payment of or in respect of a gratuity or offering—
 - (i) where the payment is not made directly or indirectly by the secondary contributor and the sum paid does not comprise or represent sums previously paid to the secondary contributor; or
 - (ii) where the payment is not directly or indirectly allocated by the secondary contributor to the earner;
- (d) any payment in kind or by way of the provision of board or lodging or of services or other facilities;
- (e) a payment made to or by trustees, where—
 - (i) in the case of a payment to trustees, the share thereof which that person is entitled to have paid to him, or
 - (ii) in the case of a payment made by trustees, the amount to be so paid,is or may be dependent upon the exercise by the trustees of a discretion or the performance by them of a duty arising under the trust;

- (f) any payment of earnings in respect of employed earner's employment which a secondary contributor is required to make under regulation 3(2)(e) of the Occupational Pension Schemes (Recognition of Schemes) (No. 2) Regulations 1973(a);
- (g) any payment by way of a pension;
- (h) a payment of a fee in respect of employment as a minister of religion which does not form part of the stipend or salary paid in respect of that employment;
- (i) a payment to defray or a contribution towards expenses incurred by persons for whom facilities are provided under section 15 of the Disabled Persons (Employment) Act 1944(b) in travelling to and from the place where they are employed or where training is provided;
- (j) a payment by way of or derived from shares appropriated under a profit sharing scheme to which the provisions of Chapter III of Part III of the Finance Act 1978(c) (profit sharing schemes) apply.

(2) Where goods or services are supplied by an earner in employed earner's employment and earnings paid to or for the benefit of that earner in respect of that employment include the remuneration for the supply of those goods or services, and on that supply value added tax is chargeable, there shall, for the purposes aforesaid, be excluded from the calculation of those earnings an amount equal to the value added tax so chargeable.

(3)(a) Subject to the provisions of sub-paragraph (b) of this paragraph, where, by an arrangement approved by the Secretary of State for the purposes of this provision and made between an employed earner and his secondary contributor, the earner draws pay unabated by any deduction as on account of a specified benefit for a period in respect of which under the arrangement he has undertaken not to claim such benefit, there shall, for the purposes of computing his and the secondary contributor's liability for earnings-related contributions, be excluded from the computation of earnings in each earnings period in which such deduction would have been made but for the arrangement a sum equal to the specified benefit which would have been payable if the employed earner had claimed it and in respect of which such deduction would have been made.

(b) In this paragraph—

- (i) "earnings" means the earnings paid to or for the benefit of the earner in respect of employed earner's employment;
- (ii) "specified benefit" means sickness benefit, invalidity benefit, maternity allowance or, as the case may be, injury benefit.

(4) For the avoidance of doubt, in the calculation of earnings paid to or for the benefit of an earner in respect of any employed earner's employment, there shall be disregarded—

- (a) any payment by way of a redundancy payment;

(a) S.I. 1973/1854.

(b) 1944 c. 10.

(c) 1978 c. 42.

- (b) any specific and distinct payment of, or contribution towards, expenses actually incurred by an employed earner in carrying out his employment.

Exception of persons over pensionable age from Class 1 liability

20. Where earnings are paid to or for the benefit of an earner on or after the date on which he attains pensionable age in respect of a period before that date and those earnings would not normally fall to be paid before that date, he shall be excepted from liability for primary Class 1 contributions payable in respect of those earnings.

Abnormal pay practices

21.—(1) The provisions of this regulation shall not apply for the purpose of any decision of the Secretary of State in so far as that decision relates to contributions based on payments made more than one year before the beginning of the year in which that decision is given.

(2) With a view to securing that liability for the payment of earnings-related contributions is not avoided or reduced by a secondary contributor following in the payment of earnings any practice which is abnormal for the employment in respect of which the earnings are paid (hereinafter referred to as an “abnormal pay practice”), the Secretary of State may, if he thinks fit, determine any question relating to a person’s earnings-related contributions where any such practice has been or is being followed, as if the secondary contributor concerned had not followed any abnormal pay practice, but had followed a practice or practices normal for the employment in question.

(3) With the view aforesaid the Secretary of State, in any case in which he has reason to believe that any abnormal pay practice has been or is being followed, may determine any such question, if he is satisfied that it ought properly to be so determined, as if application had been duly made to him for the determination thereof.

Practices avoiding or reducing liability

22. Without prejudice to the last preceding regulation, the Secretary of State may, where he is satisfied as to the existence of any practice in respect of the payment of earnings whereby the incidence of earnings-related contributions is avoided or reduced by means of irregular or unequal payments, give directions for securing that such contributions are payable as if that practice were not followed.

PART III

EXCEPTION FROM LIABILITY FOR CLASS 2 CONTRIBUTIONS, AND PROVISIONS RELATING TO CLASS 3 CONTRIBUTIONS, APPROPRIATION, REALLOCATION AND REFUND OF CONTRIBUTIONS (OTHER THAN CLASS 4 CONTRIBUTIONS)

Exception from liability for Class 2 contributions

23.—(1) Subject to the following provisions of this regulation, a self-employed earner shall be excepted from liability to pay a Class 2 contribution for any contribution week—

- (a) in respect of the whole of which the earner is in receipt of sickness benefit, invalidity benefit or injury benefit;

- (b) throughout the whole of which the earner is incapable of work;
 - (c) in respect of which the earner is in receipt of maternity allowance;
 - (d) throughout the whole of which he is undergoing imprisonment or detention in legal custody; or
 - (e) in respect of any part of which the earner is in receipt of unemployment supplement or invalid care allowance.
- (2) For the purposes of the foregoing provision, in computing the period of a contribution week—
- (a) subject to the provisions of the next succeeding sub-paragraph, Sunday shall be disregarded;
 - (b) in the case of a self-employed earner who objects on religious grounds to working on a specific day in each contribution week other than Sunday, and does not object to working on Sunday, that specific day shall be disregarded instead of Sunday.
- (3) Where under the foregoing provisions of this regulation, a self-employed earner is excepted from liability to pay a Class 2 contribution for any contribution week, that earner shall, subject to the provisions of Part IV of these regulations (late paid and unpaid contributions), be entitled, if he so wishes, to pay a contribution for that week.

Applications for, and duration and cancellation of, certificates of exception

24.—(1) A self-employed earner who desires to be excepted from liability to pay Class 2 contributions by virtue of the provisions of section 7(5) of the Act (exception from such liability for Class 2 contributions on grounds of small earnings) shall make an application for that purpose to the Secretary of State who, if he grants the application, shall issue to the applicant a certificate of exception.

(2) Any such application and certificate shall be in such form as may for the time being be approved by the Secretary of State.

(3) An applicant for, and a holder of, a certificate of exception shall furnish to the Secretary of State such information and evidence relating to his earnings as the Secretary of State may require on the making of the application and from time to time thereafter.

(4) Subject to the conditions specified in paragraph (5) of this regulation, a certificate of exception shall be in force for such period as may be specified therein.

(5) The conditions referred to in the preceding paragraph of this regulation are that—

- (a) if any condition attached to the issue or continuation in force of the certificate is not, or ceases to be, fulfilled, the certificate shall cease to be in force as from the date of such non-fulfilment or cessation, and the holder shall forthwith notify the Secretary of State to that effect;

- (b) the period specified in the certificate may, at the discretion of the Secretary of State, commence on such date not earlier than 13 weeks before the date on which the application therefor was made as the Secretary of State may consider appropriate to the circumstances of the case.
- (6) The holder of a certificate of exception—
- (a) shall, when called upon to do so by an officer of the Department of Health and Social Security or an officer of the Commissioners of Inland Revenue acting on behalf of that Department, produce the certificate for the officer's inspection;
- (b) shall, if at any time he desires the certificate to be cancelled, give notice in writing to the Secretary of State, whereupon the certificate shall cease to be in force from such date as the Secretary of State may determine.

Earnings for the purposes of certificates of exception

25.—(1) For the purposes of section 7(5) of the Act (exception from liability for Class 2 contributions on account of small earnings) the earnings of an applicant for a certificate of exception shall, in respect of any particular year, be treated as less than the amount specified in that section, if it is shown to the satisfaction of the Secretary of State—

- (a) that in the year preceding the particular year, the earnings of the applicant were less than the amount so specified for the preceding year and that there has since been no material change of circumstances; or
- (b) that in the particular year the earnings of the applicant are expected to be less than the specified amount.

(2) For the purposes of this regulation, “earnings” means the applicant's net earnings from employment as a self-employed earner.

Certificates of exception—exception from liability for, and entitlement to pay, Class 2 contributions

26. In respect of any contribution week during the whole of which there is in force a certificate of exception in relation to a self-employed earner, that earner—

- (a) shall be excepted from liability to pay a Class 2 contribution; but
- (b) shall, subject to the provisions of Part IV of these regulations (late paid and unpaid contributions), be entitled to pay such a contribution if he so wishes.

Class 3 contributions

27.—(1) Subject to the provisions of section 8(2) of the Act (Class 3 contributions only payable for purposes of satisfying certain contribution conditions) and section 5(1) of the Pensions Act (circumstances in which persons shall not be entitled to pay Class 3 contributions) and of these regulations,

any person who is over the age of 16 and fulfils the conditions as to residence or presence in Great Britain prescribed in regulation 119 of these regulations, may, if he so wishes, pay Class 3 contributions.

(2) It shall be a condition of a person's right to pay a Class 3 contribution that he—

- (a) complies with the provisions of Part V of these regulations in so far as they are applicable to persons paying such a contribution; and
- (b) complies with either of the two conditions specified in the next succeeding paragraph of this regulation.

(3) The conditions referred to in the last preceding paragraph of this regulation are that the person specified in paragraph (1) of this regulation shall either—

- (a) pay the contribution before the end of the year in respect of which it is paid; or
- (b) subject to the provisions of regulation 29 and of Part IV of these regulations (late paid and unpaid contributions) pay the contribution—
 - (i) before the end of the 2nd year following the year in respect of which it is paid; or
 - (ii) where the year in respect of which it is paid includes a period of at least 6 months throughout which the contributor has been undergoing full-time education, or full-time apprenticeship or training for which, in either case, any earnings are less than the lower earnings limit, or has been undergoing imprisonment or detention in legal custody, before the end of the 6th year following the year in which the education, or apprenticeship or training, or imprisonment or detention terminated.

Precluded Class 3 contributions

28.—(1) Subject to the provisions of the next succeeding paragraph no person shall be entitled to pay a Class 3 contribution—

- (a) in respect of any year if he would, but for the payment of such a contribution, be entitled to be credited with a contribution;
- (b) in respect of any year in which the aggregate of his earnings factors derived from contributions paid or credited is less than 25 times the lower earnings limit and either the period has passed within which any Class 3 contributions may be treated as paid for that year under regulation 38 of these regulations, or he has sooner, in accordance with regulation 34 of these regulations, applied for the return of any Class 3 contributions paid in respect of that year;
- (c) in respect of any year if the aggregate of his earnings factors derived from contributions paid or credited is more than 25 times the lower earnings limit but less than the qualifying earnings factor and either the period referred to in sub-paragraph (b) above has passed or he has sooner as aforesaid applied for the return of any Class 3 contributions paid in respect of that year;

- (d) in respect of any year if it causes the aggregate of his earnings factors derived from contributions paid or credited to exceed the qualifying earnings factor by an amount which is half or more than half that year's lower earnings limit;
- (e) in respect of the year in which he attains pensionable age or in respect of any subsequent year;
- (f) in respect of the years in which he attains 17 or 18 years of age if in an earlier year he has satisfied the first contribution condition for retirement pension or widow's pension or widowed mother's allowance.

(2) Notwithstanding the provisions of sub-paragraph (a), (b) or (c) of the last preceding paragraph a person shall be entitled to pay a Class 3 contribution in respect of any year if it would enable him to satisfy—

- (a) the first contribution condition for retirement pension or widow's pension or widowed mother's allowance and he has not satisfied that condition at the beginning of that year; or
- (b) the first contribution condition for maternity grant or the contribution condition for widow's allowance or death grant and he has not satisfied those conditions at the beginning of that year; or
- (c) the second contribution condition for maternity grant in respect of that year; or
- (d) the second contribution condition for unemployment or sickness benefit in any case to which regulation 10(8) of the Social Security (Credits) Regulations 1975(a) applies.

(3) In this regulation "credited" means credited for the purposes of retirement pension, widowed mother's allowance and widow's pension; and "qualifying earnings factor" has the same meaning as in section 5(3) of the Pensions Act.

Class 3 contributions not paid within prescribed periods

29. Where a person was entitled to pay a Class 3 contribution under the provisions of regulation 27, 120(2)(b) or 121 of these regulations but he failed to pay that contribution in the appropriate period prescribed therefor and his failure is shown to the satisfaction of the Secretary of State to be attributable to ignorance or error on his part which was not due to any failure on his part to exercise due care and diligence, that contribution may be paid within such further period as the Secretary of State may direct.

Appropriation of Class 3 contributions

30. Any person paying Class 3 contributions in one year may appropriate such contributions to the earnings factor of another year if such contributions are payable in respect of that other year or in the absence of any such appropriation the Secretary of State may with the consent of the contributor and subject to the same condition make such appropriation.

(a) S.I. 1975/556, to which there are amendments not relevant to these Regulations.

Disposal of contributions not properly paid

31. Where contributions (other than Class 4 contributions) are paid which are of the wrong class, or at the wrong rate, or of the wrong amount, the Secretary of State may treat them as paid on account of contributions properly payable under the Act.

Return of contributions

32.—(1) Subject to the provisions of regulations 31 and 35 of these regulations and the following provisions of this regulation, where there have been paid in error by a person or a secondary contributor (if any) any contributions (other than Class 4 contributions), or there has been any payment of contributions in excess of the amount prescribed in regulation 17 of these regulations (annual maximum), such contributions shall be returned by the Secretary of State to that person or the secondary contributor, as the case may require, if application to that effect is made in writing to the Secretary of State within the time specified in paragraph (5) of this regulation unless the net amount of the contributions to be returned—

- (a) in the case of Class 1 contributions, does not exceed in value £0.50; or
- (b) in the case of Class 2 contributions, does not exceed the amount prescribed in the said regulation 17 by an amount which is half or more than half a Class 2 contribution.

(2) Where an application under this regulation has been made for the return of contributions paid in excess of the amount prescribed in the said regulation 17 they shall, subject to paragraph (3) of this regulation, be returned in the following order of priority—

- (a) primary Class 1 contributions at the reduced rate;
- (b) Class 2 contributions;
- (c) primary Class 1 contributions at the standard rate;
- (d) any amount of primary Class 1 contributions at the percentages applying under section 27 of the Pensions Act in respect of contracted-out employment as specified in heads (i), (ii) or (iii) below—
 - (i) where the amount paid at the contracted-out percentage is equal to or exceeds 53 times the amount payable on earnings at the upper earnings limit for that year, the amount paid at the normal percentage in excess of 53 times the amount payable on earnings at the lower earnings limit for that year and the amount paid at the contracted-out percentage if any;
 - (ii) where the amount paid at the contracted-out percentage is less than 53 times the amount payable on earnings at the upper earnings limit for that year, the amount paid at the normal percentage;
 - (iii) where no amount has been paid at the contracted-out percentage, the amount paid at the normal percentage.

(3) Where any primary Class 1 contributions referred to in sub-paragraph (a), (c) or (d) above fall to be returned and any other primary Class 1 contributions which would, but for the provisions of regulation 115 of these regulations, have been paid at the rate or, as the case may be, the percentages specified in that sub-paragraph, are paid at the rate reduced in accordance with the said regulation 115, those other contributions shall be returned in priority to the contributions referred to in the said sub-paragraph.

(4) Contributions paid in error by a secondary contributor on behalf of any person and not recovered from him may be returned to the secondary contributor instead of to that person, but if so recovered may be returned to that person, or, with his consent in writing, to the secondary contributor.

(5) A person desiring to apply for the return of any contribution paid in error shall make the application in such form and in such manner as the Secretary of State may from time to time determine, and within the period of 6 years from the end of the year in which the contribution was paid or, if the Secretary of State is satisfied that the person making the application had good cause for not making it within the said period, within such longer period as the Secretary of State may allow.

(6) In this regulation the word "error" means, and means only, an error which—

- (a) is made at the time of the payment, and
- (b) relates to some present or past matter.

Return of Class 1 contributions paid at the non-contracted-out rate instead of at the contracted-out rate

33.—(1) Subject to the provisions of paragraphs (2) and (3) of this regulation and without prejudice to the provisions of Regulation 26(3) in Part IV of Schedule 1 to these regulations (payment of earnings-related contributions by employer) where a secondary contributor has paid an amount on account of contributions at the non-contracted-out rate in respect of any employed earner's employment which amount he would have been liable to pay but for that employment being or, as the case may be, becoming contracted-out employment, the Secretary of State shall, on application of the secondary contributor, return to him the amount so paid after deducting the amount of Class 1 contributions payable at the contracted-out rate in respect of that employment.

(2) Any amount falling to be returned under the provisions of the last preceding paragraph which has been paid by the secondary contributor on behalf of an earner and recovered from him shall be returned to the earner, or with his consent in writing, to the secondary contributor.

(3) An application under paragraph (1) of this regulation shall be made in such manner as the Secretary of State shall approve and within the period of six years from the end of the year in which the contracting-out certificate in respect of the employment was issued or, if the Secretary of State is satisfied that the secondary contributor had good cause for not making the application within the said period, within such longer period as the Secretary of State may allow.

Return of precluded Class 3 contributions

34.—(1) Subject to the provisions of regulations 31 and 35 of these regulations and to paragraph (2) below, where a contributor has paid a Class 3 contribution which by virtue of section 5(1) of the Pensions Act or regulation 28 of these regulations he was not entitled to pay, the Secretary of State shall, on application of the contributor, return such contribution to the contributor.

(2) A contributor wishing to apply for the return of any such contribution as aforesaid shall make written application to the Secretary of State in such manner as the Secretary of State shall approve.

Calculation of return of contributions

35.—(1) In calculating the amount of any return of contributions to be made under either regulation 32 or regulation 34 of these regulations, there shall be deducted—

- (a) the amount of any contributions which has under the provisions of regulation 31 of these regulations been treated as paid on account of other contributions;
- (b) in the case of such contributions paid in error in respect of any person, the amount, if any, paid to that person (and to any other person on the basis of that error) by way of contributory benefit which would not have been paid had the contributions (in respect of which an application for their return is duly made in accordance with paragraph (5) of regulation 32 of these regulations) not been paid in the first instance;
- (c) the amount of any contributions equivalent premium payable under Part III of the Pensions Act;
- (d) the amount of any limited revaluation premium payable under Part III of the Pensions Act.

(2) In this regulation the expression “contributions equivalent premium” has the same meaning as in section 42 of the Pensions Act and the expression “limited revaluation premium” has the same meaning as in section 45 of that Act.

Crediting of Class 3 contributions

36. Where for any year a contributor's earnings factor derived from Class 1 contributions, Class 2 contributions or Class 3 contributions (or any or all of such contributions) paid by, or credited to, him falls short of a figure which is 52 times that year's lower earnings limit for Class 1 contributions by an amount which is equal to or less than half that year's lower earnings limit, that contributor shall be credited with a Class 3 contribution for that year.

Reallocation of contributions for benefit purposes

37. Where any payment of earnings is made in one year which, but for the provisions of paragraph (3) of regulation 6 of these regulations, would by

virtue of that regulation have been treated as paid at an interval falling within another year, the contributions paid in respect of those earnings shall, on the application of the employed earner or, as the case may be, the direction of the Secretary of State, be treated, for the purposes of entitlement to benefit, as paid in respect of that other year.

PART IV

LATE PAID AND UNPAID CONTRIBUTIONS

Treatment for purpose of contributory benefit of late paid contributions under the Act

38.—(1) Subject to the provisions of regulations 39, 40 and 41 of these regulations, the following provisions of this regulation shall, for the purpose of entitlement to contributory benefit, apply to contributions (other than Class 4 contributions) paid after the due date.

(2) Subject to the provisions of the next succeeding paragraph, for the purpose of any entitlement to such benefit, any such contribution—

- (a) if paid after the end of the second year following the year in which liability for that contribution arises, or, in the case of a contribution which a person is entitled, but not liable, to pay, following the due date for that contribution, shall be treated as not paid;
- (b) if paid before the end of the said second year, shall, subject to paragraphs (5) and (6) of this regulation, be treated as paid on the date on which payment of the contribution is made.

(3) For the purpose aforesaid, any such contribution, being a Class 3 contribution, which is payable by a person to whom regulation 27(3)(b)(ii) of these regulations applies in respect of a year which includes a period of education, apprenticeship, training, imprisonment or detention in legal custody such as is specified in that regulation—

- (a) if paid after the end of the 6th year specified in that regulation, shall be treated as not paid;
- (b) if paid before the end of the said 6th year shall, subject to the provisions of paragraphs (5) and (6) of this regulation, be treated as paid on the date on which payment of the contribution is made.

(4) Notwithstanding the provisions of the last preceding paragraph, for the purpose of entitlement to any particular contributory benefit where a Class 3 contribution, which is payable in respect of a year specified in that paragraph, is paid after the due date and after the end of the second year following the year preceding that in which occurred the relevant time for the purposes of Schedule 3 to the Act (contribution conditions for entitlement to benefit) or, as the case may be, the date on which the person concerned attained pensionable age or died under that age or, in the case of entitlement to death grant, the death which gave rise to the claim for that grant, that contribution shall for the purpose of entitlement to the particular benefit be treated as not paid.

(5) Notwithstanding the provisions of paragraphs (2) and (3) of this regulation any such contribution as is specified in paragraph (1) of this regulation shall, in determining whether the relevant contribution conditions are satisfied in whole or in part for the purpose of entitlement to any benefit specified in that paragraph, be treated—

- (a) for the purpose of entitlement in respect of any period before the date on which the payment of the contribution is made—as not paid; and
- (b) subject to the provisions of the next succeeding paragraph, for the purpose of any entitlement to such benefit in respect of any other period—as paid on the date on which the payment of the contribution is made.

(6) For the purpose of entitlement to unemployment benefit, sickness benefit or maternity allowance, any such contribution as is specified in the said paragraph (1) shall, for the purpose of determining whether the second contribution condition for such benefit is satisfied in whole or in part, be treated—

- (a) if paid before the beginning of the relevant benefit year—as paid on the due date;
- (b) if paid after the end of the benefit year immediately preceding the said relevant benefit year—as not paid in relation to the benefit claimed in respect of any day before the expiry of a period of 42 days (including Sundays) from and including the date on which the payment of that contribution is made, and, subject to the provisions of paragraph (2)(a) of this regulation as paid at the expiry of that period in relation to entitlement to such benefit in respect of any other period.

Treatment for the purpose of any contributory benefit of late paid or unpaid primary Class 1 contributions where there was no consent, connivance or negligence by the primary contributor

39. Where a primary Class 1 contribution which is payable on a primary contributor's behalf by a secondary contributor is paid after the due date or is not paid, or in relation to any claim for unemployment benefit, sickness benefit, maternity grant or maternity allowance, is not paid before the relevant time for such benefit, and the delay or failure in making payment thereof is shown to the satisfaction of the Secretary of State not to have been with the consent or connivance of, or attributable to any negligence on the part of, the primary contributor, the primary contribution shall be treated—

- (a) for the purpose of the first contribution condition of entitlement to unemployment benefit, sickness benefit, maternity grant or maternity allowance—as paid on the day on which payment is made of the earnings in respect of which the contribution is payable; and
- (b) save as aforesaid, for the purpose of any entitlement to contributory benefit—as paid on the due date.

Voluntary Class 2 contributions not paid within permitted period

40. Where a person who is entitled, but not liable, to pay a Class 2 contribution fails to pay that contribution within the period within which it may

be paid, and his failure is shown to the satisfaction of the Secretary of State to be attributable to ignorance or error on the part of that person which was not due to any failure on his part to exercise due care and diligence, that contribution may be paid within such further period as the Secretary of State may direct.

Treatment for the purpose of any contributory benefit of contributions under the Act paid late through ignorance or error

41. In the case of a contribution (other than a Class 4 contribution) paid by or in respect of a person after the due date, where—

- (a) the contribution is paid after the time when it would, under the foregoing provisions of this Part of these regulations, have been treated as paid for the purpose of entitlement to contributory benefit, and
- (b) it is shown to the satisfaction of the Secretary of State that the failure to pay the contribution before that time is attributable to ignorance or error on the part of that person or the person making the payment and that that ignorance or error was not due to any failure on the part of such person to exercise due care and diligence,

the Secretary of State may direct that for the purposes of the foregoing provisions of this Part of these regulations the contribution shall be treated as paid on such earlier day as the Secretary of State may consider appropriate in the circumstances, and those provisions shall have effect subject to any such direction.

Treatment for the purpose of any contributory benefit of contributions paid under an arrangement

42. For the purposes of the foregoing provisions of this Part of these regulations—

- (a) where a contribution is paid under an arrangement to which regulations 47 and 48 or, as the case may be, regulation 54(3) apply the date by which but for those provisions the contribution would have fallen due to be paid shall in relation to that contribution be the due date;
- (b) any payment made of, or as on account of, a contribution in accordance with any such arrangement shall, on and after the due date, be treated as a contribution paid on the due date.

Payment of contributions after death of contributor

43. If a person dies, any contributions which, immediately before his death he was entitled, but not liable, to pay, may be paid, notwithstanding his death, subject, however, to the same provisions with respect to the time for payment as were applicable to that person.

PART V

COLLECTION OF CONTRIBUTIONS (OTHER THAN CLASS 4 CONTRIBUTIONS) AND RELATED MATTERS

Application for allocation of national insurance number

44.—(1) Subject to the provisions of paragraph (2) of this regulation, every person, who is over the age of 16 and satisfies the conditions prescribed

in regulations 87 or 119 of these regulations (conditions as to residence or presence in Great Britain), shall, unless he has already been allocated a national insurance number under the Act or under the former principal Act, apply to the Secretary of State for the allocation of a national insurance number and shall make such application at such time and in such manner as the Secretary of State shall direct.

(2) As respects any person who is neither an employed earner nor a self-employed earner the provisions of paragraph (1) of this regulation shall not apply unless and until that person wishes to pay a Class 3 contribution.

(3) The Secretary of State may authorise arrangements for the allocation of a national insurance number to any person within 12 calendar months before that person reaches the age of 16, and in particular may direct that a person who will attain the age of 16 within 12 calendar months after such direction shall apply for the allocation of a national insurance number before attaining the age of 16, and any such person shall accordingly comply with such direction.

Notification of national insurance numbers to secondary contributors

45. Every employed earner, in respect of whom any person is liable to pay an earnings-related contribution, shall, on request, supply his national insurance number to that person.

Collection and recovery of earnings-related contributions

46. Subject to the provisions of the next succeeding regulation earnings-related contributions shall be paid, accounted for and recovered in like manner as income tax deducted from the emoluments of an office or employment by virtue of regulations under section 204 (pay as you earn) of the Income and Corporation Taxes Act 1970(a); and in such case the provisions contained in Schedule 1 to these regulations, (which, with extensions and modifications, are provisions of the Income Tax (Employments) Regulations 1973(b)) shall apply to and for the purpose of earnings-related contributions.

Direct collection and recovery of earnings-related contributions

47. The Secretary of State may, if he thinks fit, and subject to such terms and conditions as he may impose, authorise any arrangements whereby earnings-related contributions are paid at times, or in a manner, other than those prescribed in the last preceding regulation; and the provisions of that regulation shall be without prejudice to any remedy otherwise available for the recovery of earnings-related contributions.

Special provisions relating to primary Class 1 contributions

48.—(1) Where by virtue of an arrangement authorised under the last preceding regulation an earner has agreed that, notwithstanding the provisions of paragraph 3(1) of Schedule 1 to the Act (method of paying Class 1 contributions), he himself will pay any primary Class 1 contribution payable in respect of earnings paid to or for his benefit in respect of an employed earner's employment, the Secretary of State shall notify the secondary contributor in writing of the arrangement and of the period to which the arrangement relates.

(a) 1970 c. 10.

(b) S.I. 1973/334.

(2) During the said period the said paragraph 3(1) shall not apply to the secondary contributor unless and until the arrangement has been cancelled before the end of the period and the secondary contributor has been notified in writing of the cancellation.

Exception in relation to earnings to which regulation 48 applies

49.—(1) Where in any year an earner has earnings from more than one employed earner's employments and to the earnings paid in respect of at least one of those employments the provisions of the last preceding regulation apply and to the earnings paid in respect of at least one of those employments those provisions do not apply, the following provisions of this regulation shall have effect.

(2) If in respect of any payment made in that year of earnings to which the provisions of the last preceding regulation do not apply the earner has paid by way of contributions a sum equal to at least the smaller of the two amounts specified in the next succeeding paragraph, he shall be excepted from liability to pay contributions in respect of any payment made in that year of earnings to which the said provisions apply.

(3) The amounts referred to in the last preceding paragraph are—

- (a) 52 primary Class 1 contributions at the rate applicable to the earner on earnings at the upper earnings limit, or
- (b) 12 primary Class 1 contributions at the rate applicable to the earner on earnings at the upper earnings limit for persons paid monthly.

Special provisions relating to culpable primary contributors and to secondary contributors or, as the case may be, employers exempted by treaty etc., from enforcement of the Act or from liability under it

50.—(1) As respects any employed earner's employment—

- (a) where there has been a failure to pay any primary contribution which a secondary contributor is, or but for the provisions of this regulation would be, liable to pay on behalf of the earner and the failure was due to an act or default of the earner and not to any negligence on the part of the secondary contributor, or
- (b) where the secondary contributor is a person against whom, by reason of any international treaty or convention such as is specified in Regulation 50(1) of Schedule 1 to these regulations (provisions for direct payment), the provisions of the Act are not enforceable and who is not willing to pay on behalf of the earner any contribution due in respect of earnings paid to or for the benefit of the earner in respect of that employment,

the provisions of paragraph 3(1) of Schedule 1 to the Act (method of paying Class 1 contributions) shall not apply in relation to that contribution.

(2) Where as respects any employed earner's employment the employer is a person who by reason of any such international treaty or convention as aforesaid is exempt from the provisions of the Act, he may, if he so wishes, pay contributions in respect of any earnings paid to or for the benefit of the earner in respect of the employment to the same extent to which he could have paid such contributions if he had not been so exempt.

(3) In this regulation the word "employer" has the same meaning as it has in the said Regulation 50(1).

Provisions as to application for, and custody of, contribution cards etc.

51.—(1) Every person to whom this regulation applies—

- (a) shall apply to the Secretary of State for a contribution card, and shall obtain such card on such occasions and in such manner as the Secretary of State shall direct;
- (b) on his obtaining or on the return to him of a contribution card in accordance with these regulations, shall be responsible for its custody until it is delivered or redelivered to a local office or retained by an inspector in accordance with the provisions of these regulations;
- (c) while responsible for the custody of the contribution card in accordance with these regulations, shall produce it for inspection at any reasonable time when requested to do so by an inspector, who may, if he thinks fit, retain it;
- (d) shall, before the return of his contribution card in pursuance of regulation 52(2) or 53(2) of these regulations, insert thereon his then present address in the place indicated for that purpose on the contribution card;
- (e) shall, if his contribution card is destroyed or lost, or is defaced in any material particular, apply to the Secretary of State for a new contribution card, and shall obtain such card, in such manner as the Secretary of State shall direct.

(2) When, pursuant to paragraph (1)(c) of this regulation, the inspector retains any stamped contribution card, he shall give a receipt for it.

(3) This regulation applies to any person, other than a person for whom arrangements have been approved under the provisions of regulation 54(3)(a) of these regulations, who is liable to pay a Class 2 contribution or who, being entitled, although not liable, to pay a Class 2 contribution, or who being entitled to pay a Class 3 contribution, wishes in either of the last two cases to do so.

Issue and currency of contribution cards

52.—(1) A contribution card shall be issued without charge to a person properly applying therefor and, when issued, shall remain the property of the Secretary of State.

(2) A contribution card shall be in such form as the Secretary of State may direct and shall be current for such period as the Secretary of State may provide and shall within 6 days, or such longer time as the Secretary of State may in any special case allow, after the date on which it ceases to be current be returned to a local office by the person for the time being responsible in accordance with these regulations for the custody of the contribution card, and any fresh contribution card, which it may be appropriate to issue, shall thereupon be issued without charge to the person so returning the contribution card.

(3) Notwithstanding the provisions of paragraph (2) of this regulation, where the Secretary of State so directs, a contribution card may be exchanged for a fresh card at any time or in a manner other than that prescribed in this regulation.

Disposal of contribution cards

53.—(1) Subject to the provisions of the last preceding regulation, the following provisions of this regulation shall apply in relation to the disposal of contribution cards.

(2) If a person to whom a contribution card has been issued for the purposes of enabling him to pay Class 2 or Class 3 contributions in respect of himself either ceases to be a self-employed earner and does not wish, or as the case may be, no longer wishes to pay Class 3 contributions in the period for which the contribution card has been issued, he shall forthwith return that contribution card to a local office or such other place as the Secretary of State may direct.

(3) Any person to whom a contribution card has been issued shall comply with any directions which may be given by the Secretary of State as to the sending to the local office of the contribution card.

(4) On the death of a person to whom a contribution card has been issued any person having possession or thereafter obtaining possession of that person's contribution card shall deliver it to a local office.

Method of, and time for, payment of Class 2 and Class 3 contributions etc.

54.—(1) Every Class 2 and Class 3 contribution which is payable shall, except as hereinafter otherwise provided, be paid—

- (a) in the case of a Class 2 contribution, by the affixing of a stamp of the appropriate value to the contribution card of the contributor in the space indicated on that card for that purpose;
- (b) in the case of a Class 3 contribution, by the surrender to a local office or an inspector of a contribution card with stamps of the appropriate value affixed to it.

(2) Subject to the following provisions of this regulation, every person who is liable to pay a Class 2 contribution shall pay that contribution not later than the last day in the contribution week in respect of which the contribution is due.

- (3) (a) The Secretary of State may, if he thinks fit, and subject to such terms and conditions as he may impose, approve arrangements whereby contributions are paid at times, or in a manner, other than those prescribed in the foregoing provisions of this regulation, and in particular, where during any year a person is both an employed earner and a self-employed earner and the Secretary of State is satisfied that the total amount of Class 1 contributions which are likely to be paid by or in respect of that person will be such as to result in the amount of contributions which are likely to be paid by that

person in respect of that same year exceeding the maximum amount prescribed in regulation 17(1) of these regulations, the Secretary of State may, with a view to avoiding excess payment of contributions, make special arrangements with that person as to the manner and date for any or any further payment by him of Class 2 contributions in respect of that year;

- (b) the provisions of these regulations shall, subject to the provisions of the arrangements, apply to the person affected by the arrangements, and any contravention of, or failure to comply with, any requirements of the arrangements shall be deemed to be a contravention of or a failure to comply with these regulations;
- (c) where in respect of an earner arrangements are authorised under sub-paragraph (a) of this paragraph for payment of contributions by way of direct debit of a bank, including a bank within the meaning of section 40 of the Post Office Act 1969(a) (giro system), such arrangements shall be subject to the condition that any payment by way of such direct debit as on account of such contributions after the authority of the bank or, as the case may be, of the Post Office to make such payment has for any reason ceased to be effective, shall not be a payment of contributions for the purposes of the Act.

(4) A person shall, immediately after affixing a stamp to any contribution card, cancel the stamp by writing or over-stamping in ink across the face of the stamp the date upon which it is affixed and not otherwise, but, except as may be authorised by the Secretary of State, no other writing or mark and no perforation shall at any time be made on or in, affixed to or impressed on a contribution card or stamp.

Deduction of contributions from pensions etc.—prescribed enactments and instruments under which payable

55. For the purposes of paragraph 8 of Schedule 1 to the Act (power to deduct contributions from a pension or allowance payable by the Secretary of State by virtue of any prescribed enactment or instrument) the prescribed enactments and instruments shall be any enactment or instrument by virtue of which there is payable by the Secretary of State any pension or allowance—

- (a) such as is specified in—
 - (i) the definition of war disablement pension in regulation 1(2) of the Family Income Supplements (General) Regulations 1971(b);
or
 - (ii) paragraph 23(5) and (6) of Schedule 1 to the Supplementary Benefits Act 1976(c); or
- (b) which is analogous to any pension or allowance specified in the provisions referred to in head (ii) of sub-paragraph (a) of this regulation.

(a) 1969 c. 48. (b) S.I. 1971/226; relevant amending instrument is S.I. 1972/1282.
(c) 1976 c. 71.

Contribution cards not to be assigned, defaced, etc.

56.—(1) No person shall assign or charge or agree to assign or charge any contribution card, and any sale, transfer or assignment of, or any charge on, any contribution card shall be void and of no effect.

(2) No person shall deface or destroy any contribution card or, save as authorised by the Secretary of State, alter, amend or erase any of the figures or particulars (other than to amend the address of the contributor) therein contained.

(3) For the purposes of this regulation, a person who removes or erases from any contribution card a stamp which has been affixed thereto, shall be deemed to have defaced that contribution card.

PART VI

CONTRIBUTION STAMPS

Adaptation of Enactments

57. Those provisions of the Stamp Duties Management Act 1891(a), and of section 63 of the Post Office Act 1953(b) which, with the necessary adaptations for applying them to stamps prepared and issued for the purposes of the Act, are set out in Part I and Part II, respectively, of Schedule 2 to these regulations, shall apply to the said stamps, so however that the provisions of section 13 of the Stamp Duties Management Act 1891, which are printed in italics in the said Schedule, shall only apply in Scotland.

PART VII

CLASS 4 CONTRIBUTIONS

Exception from Class 4 liability of persons over pensionable age and persons not resident in the United Kingdom

58. Any earner, who—

- (a) at the beginning of a year of assessment is over pensionable age; or
- (b) for the purposes of income tax is not resident in the United Kingdom in the year of assessment,

shall be excepted from liability for contributions under section 9(1) of the Act (Class 4 contributions).

Exception of divers and diving supervisors from liability for Class 4 contributions

59. A person who performs the duties of an employment to which section 29 of the Finance Act 1978(c) applies (divers and diving supervisors) shall be excepted from liability for contributions under section 9(1) of the Act (Class 4 contributions) on so much of his profits or gains as are derived from that employment.

(a) 1891 c. 38.

(b) 1953 c. 36.

(c) 1978 c. 42.

Exception of persons under the age of 16 from liability for Class 4 contributions

60.—(1) Where as respects any year of assessment a person to whom this regulation applies wishes to be excepted from liability to pay contributions under section 9(1) of the Act (Class 4 contributions) for that year, the following provisions of this regulation shall apply, subject to the provisions of regulations 64 and 65 of these regulations (certificates of exception from, and deferment of, Class 4 liability and revocation of such certificates).

(2) Any such person shall make application to the Secretary of State for a certificate of exception for that year.

(3) If it is shown to the satisfaction of the Secretary of State that the applicant is a person to whom this regulation applies and the application is made before the beginning of the year of assessment to which it relates, the Secretary of State shall issue in respect of the applicant such a certificate of exception for that year.

(4) If the application is not made until after the beginning of the year of assessment to which it relates, but is made before contributions under the said section 9(1) for that year become due and payable and it is shown to the satisfaction of the Secretary of State that the applicant is a person to whom this regulation applies, the Secretary of State may, with the agreement of the Inland Revenue (whether given generally or in the individual case), issue in respect of the applicant a certificate of exception for that year.

(5) Where under the foregoing provisions of this regulation a certificate of exception has been issued in respect of an applicant for any year of assessment, the Inland Revenue shall not collect any contributions under the said section 9(1) from the applicant for that year.

(6) This regulation applies to any person who at the beginning of the year of assessment is under the age of 16.

Exception from Class 4 liability by reference to Class 1 contributions paid on earnings chargeable to income tax under Schedule D

61.—(1) Subject to the provisions of paragraph (2) of this regulation, where in respect of earnings paid in any year of assessment an earner has or, but for the provisions of regulation 49 of these regulations, would have paid Class 1 contributions and those earnings are chargeable to income tax under Schedule D, he shall be excepted from liability to pay contributions under section 9(1) of the Act (Class 4 contributions) on so much of his profits or gains for that year of assessment as exceed the smaller of the two money sums specified in section 9(2) of the Act and do not exceed the greater of those two money sums and equal—

- (a) in the case of an earner who has or, but for the said provisions, would have paid Class 1 contributions at the standard rate, the value of the Class 1 contributions so paid or which, but for the said provisions, would have been paid, multiplied by 100 and divided by the figure specified in section 4(6)(a) of the Act;

- (b) in the case of an earner who has or, but for the said provisions, would have paid Class 1 contributions at the reduced rate, the value of the Class 1 contributions so paid or which, but for the said provisions would have been paid, multiplied by 100 and divided by the figure specified in regulation 104 of these regulations (contributions at the reduced rate);
- (c) in the case of an earner who has or, but for the said provisions, would have paid Class 1 contributions at the contracted-out percentage, the value of the Class 1 contributions so paid or which, but for the said provisions, would have been paid, multiplied by 100 and divided by the figure of the contracted-out percentage.

(2) It shall be a condition of such exception from liability that the earner makes application therefor to the Secretary of State before the beginning of the year of assessment to which the application relates, or before such later date as the Secretary of State, with the agreement of the Inland Revenue (whether given generally or in the individual case), may allow.

(3) Any such application shall be made in such manner as the Secretary of State may direct and, for the purpose of enabling the Secretary of State to determine whether the earner is entitled to the said exception, the earner shall furnish the Secretary of State with such information and evidence as the Secretary of State may, at the time of the application or thereafter, require.

(4) Without prejudice to the earner's right to any such exception, nothing in the foregoing provisions of this regulation shall prejudice the Secretary of State's powers under the next succeeding regulation to defer, pending the determination of the application, the earner's said liability under section 9(2) of the Act.

Deferment of Class 4 liability where such liability is in doubt

62. Where as respects any year of assessment it appears to the Secretary of State that, by virtue of the provisions of this Part of these regulations, there is doubt as to the extent, if any, of an earner's liability to pay contributions under section 9(1) of the Act (Class 4 contributions) for that year or that at the date on which any application under the next succeeding regulation (application for deferment of Class 4 liability) is made it is not possible to determine whether having regard to the provisions of these regulations the earner is or will be liable to pay such contributions for that year, the Secretary of State may issue in respect of the earner a certificate of deferment deferring that earner's liability for such contributions until such later date as the Secretary of State may direct.

Application for deferment of Class 4 liability

63.—(1) If a person wishes his liability to pay contributions under section 9(1) of the Act (Class 4 contributions) for any year of assessment to be deferred, he shall make application therefor to the Secretary of State.

- (2) Any such application shall—
 - (a) be made before the beginning of that year or before such later date as the Secretary of State, with the agreement of the Inland Revenue (whether given generally or in the individual case), may allow; and
 - (b) be subject to the provisions of the next two succeeding regulations.

General conditions for application for, and issue of, certificates of exception and deferment

64.—(1) Any application made under any of the foregoing provisions of this Part of these regulations for a certificate of exception from, or deferment of, liability to pay contributions under section 9(1) of the Act (Class 4 contributions) for any particular year of assessment shall be made in such form and in such manner as the Secretary of State may approve.

(2) Any such certificate shall be in such form as may for the time being be approved by the Secretary of State with the agreement of the Inland Revenue.

(3) Any person making such application shall furnish, or cause to be furnished, to the Secretary of State such information or evidence as the Secretary of State may require for the purpose of enabling him to determine whether such a certificate should be issued in respect of that person.

(4) On the issue of such a certificate the person in respect of whom the certificate is issued shall, subject to the provisions of the next succeeding paragraph of this regulation, be excepted from liability to pay the contributions to which the certificate relates or, as the case may be, his liability for such payment shall, subject as aforesaid, be deferred.

(5) If for the purpose of obtaining a certificate of exception or deferment the person making the application furnishes or causes to be furnished to the Secretary of State information which is erroneous, or fails to furnish or cause to be furnished to the Secretary of State information which is relevant, and but for such furnishing or failure the certificate would not have been issued for any particular year of assessment—

- (a) the Secretary of State may revoke the certificate in so far as it relates to that year, and
- (b) the person who made the application shall be liable to pay contributions under the said section 9(1) for that year to the extent to which he would have been so liable if the certificate had not been issued.

Revocation of certificates of exception and deferment

65. Where under the provisions of paragraph (5)(a) of the last preceding regulation the Secretary of State revokes a certificate of exception or deferment—

- (a) the Secretary of State and not the Inland Revenue shall be responsible for calculating the contributions due under section 9(1) of the Act for the year specified in paragraph (5)(b) of that regulation (being the current or a past year) and for the collection of those contributions;
- (b) the applicant shall—
 - (i) furnish, or cause to be furnished, to the Secretary of State all such information or evidence as the Secretary of State may require for the purpose of calculating the said contributions, and,
 - (ii) within such period as the Secretary of State may direct, pay to the Secretary of State the contributions so calculated.

Calculation of liability for, and recovery of, Class 4 contributions after issue of certificate of deferment

66.—(1) Where a certificate of deferment has been issued in respect of any earner under the foregoing provisions of this Part of these regulations—

- (a) the profits or gains of that earner in respect of which contributions would be payable under section 9(1) of the Act (Class 4 contributions) but for the issue of the certificate of deferment shall be assessed under the Income Tax Acts for each year to which the certificate relates in all respects as if no such certificate had been issued, provided that (without prejudice to the validity of the assessment of the amount of the earner's profits or gains and his right of appeal against that assessment) no figure representing contributions payable shall be shown in any such assessment or on any notice of such assessment nor shall any of the provisions of the Income Tax Acts (as applied or modified by section 9(3) of and Schedule 2 to the Act) as to collection, repayment or recovery apply to any such assessment;
- (b) the Secretary of State shall be responsible for the calculation, administration and recovery of Class 4 contributions ultimately payable in respect of the profits or gains so assessed for any year of assessment to which the certificate of deferment relates.

(2) Any such calculation shall be subject to the provisions of regulation 61 of these regulations (exception from Class 4 liability by reference to Class 1 contributions paid on earnings chargeable to income tax under Schedule D) and of regulation 67 thereof (annual maximum of Class 4 contributions) and for the purpose of the said calculation where the total amount of the profits or gains for any year of assessment to which the said certificate relates includes a fraction of £1·00, that fraction shall be disregarded.

(3) For the purpose of enabling the Secretary of State to make the said calculation, the Inland Revenue shall, subject to the limitation imposed by the provisions of section 9(9) of the Act (certification by the Inland Revenue of a person's profits or gains, but no such certificate to relate to a person's profits or gains so far as they exceed the higher of the two money sums specified in section 9(2) of the Act) and to the provisions of the next succeeding paragraph, at the request of the Secretary of State certify to the Secretary of State and the earner the amount of that earner's profits or gains (as computed under Schedule 2 to the Act) for each such year.

(4) Notwithstanding the provisions of the last preceding paragraph, the Inland Revenue shall not be required to certify the said amount unless the assessment made under this regulation has become final and conclusive or, if an appeal is pending against the said assessment—

- (a) the Inland Revenue and the earner have come to an agreement, whether in writing or otherwise; or
- (b) it appears to the General Commissioners or the Special Commissioners within the meaning of the Income Tax Acts, as the case may be,

that the amount of the earner's profits or gains so computed is not less than the higher of the two money sums specified in section 9(2) of the Act.

(5) The Secretary of State on making the said calculation shall give notice to the earner of the amount of the contributions due from him under section 9(1) of the Act for each year to which the certificate of deferment relates.

(6) The earner shall thereupon pay to the Secretary of State those contributions within the period of 28 days from the receipt of the notice from the Secretary of State, unless before the expiry of that period the earner—

- (a) has appealed out of time or made a claim or appealed against the decision on a claim made under the Income Tax Acts on any matter concerning the amount of the profits or gains certified as aforesaid and has notified the Secretary of State accordingly; or
- (b) has raised a question under section 93(1)(b) of the Act (Secretary of State's questions) relating to those contributions.

(7) If the amount of any assessment made under this regulation for any year is altered for any reason, or if a further assessment is made in respect of that year, subsequently to the certification by the Inland Revenue of the amount of an earner's profits or gains computed in accordance with the provisions of this regulation and that alteration or further assessment affects the amount of the earner's profits or gains so computed the Inland Revenue shall forthwith, or in the case of a further assessment when that further assessment has become final and conclusive, certify to the Secretary of State and the earner the altered amount of the earner's profits or gains.

Annual maximum of Class 4 contributions due under section 9(1) of the Act

67.—(1) Where for any year there are payable by or in respect of an earner Class 4 contributions under section 9(1) of the Act and also primary Class 1 or Class 2 contributions or both primary Class 1 and Class 2 contributions, the liability of that earner for such Class 4 contributions for that year shall (without prejudice to his liability in the first instance for the full amount payable apart from this regulation) not exceed such amount as, when added to the amount of such other of the said contributions as are ultimately payable by or in respect of him for that year, equals in value the sum of the amount which, but for the provisions of this regulation, would be payable by that earner on profits or gains equal to the higher of the two money sums specified in section 9(2) of the Act and 53 times the amount of a Class 2 contribution payable for that year.

(2) For the purpose only of determining the extent of an earner's liability for Class 4 contributions under the last preceding paragraph, the amount of any primary Class 1 contributions paid at a rate less than the standard rate shall be treated as equal to the amount of any primary Class 1 contributions payable at the standard rate on the same amount of earnings.

Disposal of Class 4 contributions under section 9(1) of the Act which are not due

68. Where for any year of assessment any payment is made by an earner as on account of contributions under section 9(1) of the Act (Class 4 contributions) and

- (a) a certificate of exception is issued for that year, or would have been so issued if application had been made therefor before the beginning of that year; or

- (b) that payment is made in error in circumstances in which the contributions so paid do not fall to be refunded by the Inland Revenue; or
- (c) the payment is in excess of the amount which, subject to any exception under regulation 61 of these regulations, is due from that earner for that year or would have been so due if application for exception had been made under that regulation before the beginning of that year; or
- (d) the payment is in excess of the amount calculated in accordance with the last preceding regulation (annual maximum);

the Secretary of State may treat that payment as made on account of other contributions properly payable by that person under the Act.

Repayment of Class 4 contributions under section 9(1) of the Act which are not due

69.—(1) Subject to the following provisions of this regulation, any payment such as is specified in the last preceding regulation shall, except in so far as it is, under that regulation, treated by the Secretary of State as made on account of contributions under the Act, be repaid by the Secretary of State to the earner, unless the net amount of such repayment would not exceed in value £0·50.

- (2) It shall be a condition of the said repayment that—
 - (a) the earner makes application for the said repayment in such form and in such manner as the Secretary of State may determine, and
 - (b) the said application is made within a period of 6 years from the end of the year of assessment in respect of which the payment was made or within a period of 2 years from the end of the year in which the payment was made.

Disapplication of section 47 of the Finance (No. 2) Act 1975 to repayments of Class 4 contributions paid under section 9(1) of the Act

70. Section 47 of the Finance (No. 2) Act 1975(a) (repayment supplement in respect of delayed repayments of certain taxes to persons other than companies) shall not apply to any repayment of any Class 4 contributions paid under section 9(1) of the Act.

Class 4 liability of earners treated as self-employed earners who, but for such treatment, would be employed earners

71. Subject to the provisions of regulation 76 of these regulations (annual maximum of special Class 4 contributions), where—

- (a) an earner, in respect of any one or more employments of his, is treated by regulations under section 2(2)(b) of the Act (treatment of a person in employment of any prescribed description as falling in one or other of the categories of earner) as being self-employed; and
- (b) in any year he has earnings from any such employment (one or more) which fall within section 7(4)(b)(i) of the Act (higher weekly rate of

Class 2 contributions), but is not liable for a higher weekly rate of Class 2 contributions by virtue of regulations under subsection (4) of the said section 7; and

- (c) those earnings are chargeable to income tax under Schedule E; and
- (d) the total of those earnings exceeds the sum specified in section 10(1)(c) of the Act,

he shall be liable, in respect of those earnings, to pay a Class 4 contribution (hereinafter in this Part of these regulations referred to as a special Class 4 contribution) of an amount equal to the percentage specified in subsection (1) of section 10 of the Act of so much of the total as exceeds the lower, and does not exceed the higher, of the money sums specified from time to time in that subsection.

Notification of insurance number and recording of category letter on deduction card

72.—(1) Any earner to whom the last preceding regulation applies shall, on request, notify his national insurance number to the person who pays him the earnings referred to in that regulation.

(2) The person who pays the said earnings shall record on the earner's deduction card the earner's national insurance number, and the appropriate category letter as indicated by the Secretary of State.

(3) In this regulation "deduction card" has the same meaning as in Schedule 1 to these regulations.

Calculation of earnings for the purposes of special Class 4 contributions

73. For the purpose of the calculation of an earner's liability for a special Class 4 contribution for any year—

- (a) the earnings of that earner for that year shall, subject to the provisions of paragraph (b) of this regulation, be calculated by the Secretary of State on the basis that they are earnings to which regulations 18 and 19 of these regulations (calculation of earnings for the purposes of earnings-related contributions and payments to be disregarded) apply;
- (b) in the calculation of the earnings as aforesaid, if the total amount of the earnings for the year includes a fraction of £1·00, that fraction shall be disregarded.

Notification and payment of special Class 4 contributions due

74. The Secretary of State shall, subject to any other arrangements notified by him to the earner specified in the last preceding regulation, give notice to the earner of the special Class 4 contribution due from him for any year, and the earner shall pay that contribution to the Secretary of State within the period of 28 days from the receipt of the notice unless before the expiry of that period the earner has raised a question under section 93(1)(b) of the Act (Secretary of State's questions) relating to that contribution.

Recovery of deferred Class 4 and special Class 4 contributions after appeal, claim or further assessment under the Income Tax Acts or after the raising of a Secretary of State's question

75.—(1) Where the Secretary of State has been notified that there has been such a claim or appeal as is specified in regulation 66(6)(a) of these regulations

(recovery of Class 4 contributions after deferment) or there has been raised such a question as is specified in regulation 66(6)(b) or in the last preceding regulation or the Inland Revenue has certified in accordance with regulation 66(7) an altered amount of an earner's profits or gains—

- (a) the Secretary of State shall, as soon as may be after the prescribed time, give to the earner notice or, as the case may be, revised notice of such contributions as might, having regard to the final decision on the claim or appeal or, as the case may be, the final decision of the Secretary of State's question or the said altered amount of profits or gains, be due from the earner—
 - (i) under section 9(1) of the Act (Class 4 contributions) for the year or years to which the certificate referred to in the said regulation 66 relates; or, as the case may be,
 - (ii) by way of a special Class 4 contribution for the year to which the notice specified in the last preceding regulation relates; and
- (b) the earner shall within 28 days of receipt of that notice pay to the Secretary of State the contribution or contributions specified in that notice.

(2) In this regulation the expression "prescribed time" means—

- (a) except where sub-paragraph (c) of this paragraph applies—
 - (i) in the case of an appeal out of time, the date of the determination of the appeal;
 - (ii) in the case of a claim or appeal against a decision on a claim made under the Income Tax Acts, the date on which the time for appealing against the decision on the claim expires, or the date of the determination of the appeal, whichever is the later;
- (b) in the case of a question being raised for decision by the Secretary of State, the date on which the time for appealing against that decision expires or the date of the determination of the appeal, whichever is the later;
- (c) in the case of an altered amount of profits or gains being certified by the Inland Revenue, the date on which they are so certified.

Annual maximum of special Class 4 contributions

76. Where for any year there are payable (or, but for the provisions of this regulation, there would be payable) by or in respect of an earner a special Class 4 contribution and also any contribution under section 9(1) of the Act (in this regulation referred to as "Class 4 contribution") or any primary Class 1 contribution or any Class 2 contribution, or any combination of such contributions, the maximum amount of the special Class 4 contributions payable for that year shall (without prejudice to the earner's liability in the first instance for the full amount payable apart from this regulation) not exceed in value—

- (a) in the case of a special Class 4 contribution and a Class 4 contribution, the amount (if any) equal to the difference between the maximum amount of a special Class 4 contribution for which provision is made in section 10(1) of the Act and the amount of the Class 4 contributions ultimately payable for that year; or subject as aforesaid,

- (b) in any other case specified in this regulation (whether or not a Class 4 contribution is also payable), the amount (if any) equal to the difference between the maximum amount prescribed in regulation 67 of these regulations (annual maximum of Class 4 contributions) and the amount of such Class 4, primary Class 1 and Class 2 contributions as are ultimately payable for that year.

Disposal of special Class 4 contributions paid in excess or error

77. Where any payment has been made by a person as on account of a special Class 4 contribution and that payment has been made in excess of the amount prescribed under the last preceding regulation, or has been made in error, the Secretary of State may treat that payment as made on account of other contributions properly payable by that person under the Act.

Return of special Class 4 contributions paid in excess or error

78.—(1) Subject to the provisions of the last preceding regulation and to the following provisions of this regulation, where any payment has been made by a person as on account of a special Class 4 contribution and that payment has been made in excess of the amount prescribed in regulation 76 of these regulations (annual maximum of special Class 4 contributions) or in error, that payment shall be returned by the Secretary of State to that person, unless the net amount to be returned does not exceed in value £0·50, if application is made in writing to the Secretary of State within the time specified in paragraph (3) of this regulation.

(2) In calculating the amount of any return of special Class 4 contributions to be made under the last preceding paragraph of this regulation there shall be deducted the amount (if any) treated under the last preceding regulation as paid on account of other contributions.

(3) Any person desiring to apply for the return of a special Class 4 contribution shall make the application in such form and in such manner as the Secretary of State may from time to time determine, and within the period of 6 years from the end of the year in which the contribution was paid or, if the Secretary of State is satisfied that the person making the application had good cause for not making it within the said period, within such longer period as the Secretary of State may allow.

Husband and wife

79. Where by virtue of paragraph 4 of Schedule 2 to the Act (husband's liability for wife's Class 4 contributions) a husband is liable to pay a Class 4 contribution in respect of the profits or gains of his wife, the foregoing provisions of this Part of these regulations, except in so far as they relate to assessment, appeals or claims under the Income Tax Acts or certification by the Inland Revenue, shall apply as if the wife were separately assessed within the meaning of that paragraph.

Service of notice by post

80. Any notice which under this Part of these regulations the Secretary of State is required to give may be sent by post.

PART VIII

SPECIAL CLASSES OF EARNERS

CASE A—AIRMEN

Interpretation

81. In the provisions of this Case, unless the context otherwise requires—

“airman” means a person who is, or has been, employed under a contract of service either as a pilot, commander, navigator or other member of the crew of any aircraft, or in any other capacity on board any aircraft where—

- (a) the employment in that other capacity is for the purposes of the aircraft or its crew or of any passengers or cargo or mails carried thereby, and
- (b) the contract is entered into in the United Kingdom with a view to its performance (in whole or in part) while the aircraft is in flight, but does not include a person in so far as his employment is as a serving member of the forces;

“British aircraft” means any aircraft belonging to Her Majesty and any aircraft registered in the United Kingdom of which the owner (or managing owner if there is more than one owner) resides or has his principal place of business in Great Britain, and references to the owner of an aircraft shall, in relation to an aircraft which has been hired, be taken as referring to the person for the time being entitled as hirer to possession and control of the aircraft by virtue of the hiring or any subordinate hiring.

Modification of employed earner's employment

82.—(1) Subject to the following provisions of this regulation, where an airman is employed as such on board any aircraft, and the employer of that airman or the person paying the airman his earnings in respect of the employment (whether or not the person making the payment is acting as agent for the employer) or the person under whose directions the terms of the airman's employment and the amount of the earnings to be paid in respect thereof are determined has—

- (a) in the case of the aircraft being a British aircraft, a place of business in Great Britain, or
- (b) in any other case, his principal place of business in Great Britain,

then, notwithstanding that the airman does not fulfil the conditions of section 2(1)(a) of the Act (definition of employed earner), he shall be treated as employed in employed earner's employment and, for the purposes of regulation 119(1)(a) of these regulations (conditions as to residence or presence in Great Britain), in respect of that employment, as present in Great Britain.

(2) Subject to the provisions of the next succeeding paragraph, notwithstanding that an airman is employed in an employment to which the provisions of the last preceding paragraph apply, if that airman is neither domiciled nor has a place of residence in Great Britain no contributions shall be payable by or in respect of him as an employed earner.

(3) The provisions of the last preceding paragraph shall have effect subject to any Order in Council giving effect to any reciprocal agreement made under section 143 of the Act (reciprocity with other countries).

Application of the Act and regulations

83. The provisions of Part I of the Act and so much of Part IV thereof as relates to contributions and the regulations made under those provisions shall, so far as they are not inconsistent with the provisions of this Case, apply to an airman with the modification that, where an airman is, on account of his being outside Great Britain by reason of his employment as an airman, unable to perform an act required to be done either forthwith or upon the happening of a certain event or within a specified time, he shall be deemed to have complied therewith if he performs the act as soon as is reasonably practicable, although after the happening of the event or the expiration of the specified time.

Special transitional provision

84. For the purpose of facilitating the winding up of the system of insurance contained in the former principal Act and the disposal of matters connected with that system the following provisions of the National Insurance (Airmen) Regulations 1948(a), shall continue to have effect, that is to say regulation 3 (return of contributions in respect of non-domiciled airmen employed as aircrew), regulation 8 (breach of regulations) and, in so far as it relates to contributions under the former principal Act, regulation 9 (application of former principal Act and regulations).

CASE B—CONTINENTAL SHELF

Application to employment in connection with continental shelf of Part I of the Act and so much of Part IV thereof as relates to contributions

85.—(1) For the purposes of section 132 of the Act (continental shelf, prescribed employment) prescribed employment shall be any employment (whether under a contract of service or not) in any area which may from time to time be designated by Order in Council under section 1(7) of the Continental Shelf Act 1964(b), where the employment is in connection with the exploitation of the resources mentioned in section 1(1) of that Act (exploration and exploitation of continental shelf) or with the exploration of the sea bed and subsoil in such designated area.

(2) Where a person is employed in any employment specified in paragraph (1) of this regulation, the provisions of Part I of the Act and so much of Part IV thereof as relates to contributions shall, subject to the provisions of the next succeeding paragraph, apply as though the area so designated as aforesaid were in Great Britain, and notwithstanding that he does not satisfy the conditions as to residence or presence in Great Britain prescribed in regulation 119(1)(a) of these regulations (conditions as to residence or presence in Great Britain).

(3) Where a person employed in any employment specified in paragraph (1) of this regulation is, on account of his being outside Great Britain by reason of that employment, unable to perform any act required to be done either

(a) S.I. 1948/1466 to which there are amendments not relevant to these regulations.
(b) 1964 c. 29.

forthwith or on the happening of a certain event or within a specified time, he shall be deemed to have complied with such requirement if he performs the act as soon as is reasonably practicable, although after the happening of the event or the expiration of the specified time.

CASE C—MARINERS

Interpretation

86. In the provisions of this Case—

“British ship” means—

- (a) any ship or vessel belonging to Her Majesty; or
- (b) any ship or vessel whose port of registry is a port in Great Britain or in the case of a hovercraft which is registered in Great Britain;

“foreign-going ship” means any ship or vessel which is not a home-trade ship;

“home-trade ship” includes

- (a) every ship or vessel employed in trading or going within the following limits, that is to say, the United Kingdom (including for this purpose the Republic of Ireland), the Channel Islands, the Isle of Man, and the continent of Europe between the river Elbe and Brest inclusive;
- (b) every fishing vessel not proceeding beyond the following limits—
 - on the South, Latitude 48° 30' N.;
 - on the West, Longitude 12° W.;
 - on the North, Latitude 61° N.;

“managing owner” means that owner of any ship or vessel who, where there is more than one such owner, is responsible for the control and management of that ship or vessel;

“mariner” means a person who is or has been in employment under a contract of service either as a master or member of the crew of any ship or vessel, or in any other capacity on board any ship or vessel where—

- (a) the employment in that other capacity is for the purposes of that ship or vessel or her crew or any passengers or cargo or mails carried thereby, and
- (b) the contract is entered into in the United Kingdom with a view to its performance (in whole or in part) while the ship or vessel is on her voyage,

but does not include a person in so far as his employment is as a serving member of the forces;

“owner” in relation to any ship or vessel, means the person to whom the ship or vessel belongs and who, subject to the right of control of the captain or master of the ship or vessel, is entitled to control of that ship or vessel, and references to the owner of a ship or vessel shall, in relation to a ship or vessel which has been demised, be

construed as referring to the person who for the time being is entitled as charterer to possession and, subject as aforesaid, control of the ship or vessel by virtue of the demise or any sub-demise;

“passenger” has the same meaning as is assigned to that word in the Merchant Shipping (Safety Convention) Act 1949(a);

“pay period” in relation to any payment of a mariner’s earnings means the period in respect of which the payment is made;

“radio officer” means a mariner employed in connection with the radio apparatus of any ship or vessel and holding a certificate of competence in radio telephony granted by the Secretary of State or by an authority empowered in that behalf by the legislature of some part of the Commonwealth or of the Republic of Ireland and recognised by the Secretary of State as equivalent to the like certificate granted by him;

“share fisherman” means any person who—

(a) is ordinarily employed in the fishing industry otherwise than under a contract of service as master or a member of the crew of any British fishing boat within the meaning of section 373 of the Merchant Shipping Act 1894(b), being a fishing boat manned by more than one person, and remunerated in respect of that employment in whole or in part by a share of the profits or gross earnings of the fishing boat, or

(b) has ordinarily been so employed, but who by reason of age or infirmity permanently ceases to be so employed and becomes ordinarily engaged in employment ashore in Great Britain otherwise than under a contract of service making or mending any gear appurtenant to a British fishing boat or performing other services ancillary to or in connection with that boat and is remunerated in respect of that employment in whole or in part by a share of the profits or gross earnings of that boat and has not ceased to be ordinarily engaged in such employment;

“ship or vessel” for the purposes of the provisions of this Case other than those of regulations 89 to 95 and 97 includes hovercraft;

“voyage period” means a pay period comprising an entire voyage or series of voyages (including any period of leave on pay which immediately follows the day on which the termination of that voyage or series of voyages occurs);

“week” means a period of 7 consecutive days and “weekly” shall be construed accordingly.

Conditions of domicile or residence

87.—(1) Subject to the provisions of paragraph (2) of this regulation, as respects any employment of a person as a mariner and liability for payment of any contribution under the Act as an employed earner by or on behalf, or in respect, of that mariner in respect of that employment—

(a) the provisions of Case F of these regulations relating to conditions as to residence or presence in Great Britain shall not apply; but

(a) 1949 c. 43.

(b) 1894 c. 60.

- (b) it shall be a condition of liability to pay a contribution under the Act that the mariner is domiciled or resident in Great Britain; and
- (c) it shall be a condition of liability to pay a secondary contribution under the Act that the secondary contributor is resident or has a place of business in Great Britain.

(2) The foregoing provisions of this regulation shall have effect subject to any Order in Council giving effect to any reciprocal agreement made under section 143 of the Act (reciprocity with other countries).

Modification of employed earner's employment

88. Where a mariner—

(a) is employed as such and—

- (i) the employment is on board a British ship; or
- (ii) the employment is on board a ship and the contract in respect of the employment is entered into in the United Kingdom with a view to its performance (in whole or in part) while the ship or vessel is on her voyage; and
- (iii) in a case to which head (ii) applies, the person by whom the mariner's earnings are paid, or, in the case of employment as a master or member of the crew of a ship or vessel, either that person or the owner of the ship or vessel (or the managing owner if there is more than one owner) has a place of business in Great Britain; or

(b) is employed as a master, member of the crew or as a radio officer on board any ship or vessel, not being a mariner to whom the last preceding paragraph applies, and,

- (i) in the case of the employment being as a radio officer, if the contract under which the employment is performed is entered into in the United Kingdom, the employer or the person paying the radio officer his earnings for that employment has a place of business in Great Britain, or,
- (ii) in the case of the employment being as a master, member of the crew or as a radio officer, if the contract is not entered into in the United Kingdom, the employer or the person paying the earnings has his principal place of business in Great Britain,

then, notwithstanding that he does not fulfil the conditions of section 2(1)(a) of the Act (definition of employed earner), the employment of that mariner as aforesaid shall be treated as employed earner's employment.

Modification of section 4(6)(b) of the Act

89.—(1) As respects earnings paid to or for the benefit of a mariner for employment as such in any employment specified in the following provisions of this regulation, being employment which by virtue of the last preceding regulation is treated as employed earner's employment, the provisions of section 4(6)(b) of the Act (secondary contributions) shall be modified as follows—

- (a) where the employment is of a person as a mariner, and at the time of the payment of the earnings the provisions of article 3 of the Redundancy Payments (Merchant Seamen Exclusion) Order 1973(a) (exclusion of certain mariners from application of section 81 of the Employment Protection (Consolidation) Act 1978(b)) apply to that person, the percentage rate specified in the said section 4(6)(b) shall be reduced by 0·2;
- (b) where the employment is as master or member of the crew of a ship, and—
 - (i) the employment is on a foreign-going ship and the payment of earnings is exclusively in respect of that employment, or
 - (ii) the employment is partly on a foreign-going ship and partly otherwise than on such a ship and the payment of earnings in respect of that employment is made during the employment on the foreign-going ship,
 the said percentage rate shall be reduced or, as the case may be, further reduced by 0·6.

(2) In the last preceding paragraph the word “employment” shall include any period of leave, other than leave for the purpose of study, accruing from the employment.

Earnings period for mariners

90.—(1) Subject to the provisions of the next succeeding paragraph and of regulation 97 of these regulations, for the purpose of assessing the amount, if any, of earnings-related contributions payable in respect of earnings paid to or for the benefit of a mariner in respect of his employment as such, where a pay period is a voyage period, that period shall be the earnings period.

(2) Where such voyage period—

- (a) is less than a week, that period shall for the said purpose be treated as a week;
- (b) exceeds a week or a whole multiple of a week by a part of a week,
 - (i) if that part of a week is a period in excess of 3 days, that part of a week shall for the said purpose be treated as a week;
 - (ii) if that part of a week is a period of 3 days or less, that part of the week shall be disregarded (and the mariner’s earnings in respect of his employment as such during that part of a week shall, for the said purpose, be treated as paid for employment in the week immediately preceding that part of a week).

(3) Where the voyage period falls partly in one year and partly in one or more other years contributions paid in respect of earnings paid to or for the benefit of the mariner in respect of his employment as such in respect of that voyage period shall be apportioned between the years proportionately to the length of the part of the voyage period occurring in each such year and each amount of contributions so apportioned shall be treated as paid in respect of the year to which that amount is apportioned.

(a) S.I. 1973/1281.

(b) 1978 c. 44.

Calculation of earnings-related contributions for mariners

91.—(1) For the purpose of the calculation of earnings-related contributions payable in respect of earnings paid to or for the benefit of a person in respect of that person's employment as a mariner—

- (a) the provisions of regulation 9(1) of these regulations (calculation of earnings-related contributions) shall apply;
- (b) in the alternative, paragraphs (2), (3), (4) and (5) of that regulation shall, except in relation to secondary contributions payable at a rate reduced in accordance with the provisions of regulation 89 of these regulations, apply in respect of those earnings.

(2) Subject to the provisions of the said paragraphs (3), (4) and (5), where the secondary contribution is payable at a rate reduced in accordance with regulation 89 of these regulations, that contribution may be calculated in accordance with the scale prepared by the Secretary of State appropriate to that rate.

Change of circumstances etc. affecting calculation of mariner's earnings for contributions purposes

92. In any case where, as respects earnings paid to or for the benefit of a mariner in respect of his employment as such, earnings-related contributions are collected in accordance with the provisions of Part V of Schedule 1 to these regulations, for the purpose of calculating the amount of those earnings in respect of that employment during any pay period to which the provisions of regulation 90 of these regulations apply and the amount (if any) of earnings-related contributions payable in respect of those earnings, where during that period there occurs a change of circumstance (other than a change of the amount of the mariner's earnings) or the happening of an event under the Act which, in either case, affects such calculation, such change or happening shall, for the said purpose, notwithstanding that that mariner's earnings period is not a period of a week, have effect from the date from which it would have had effect if that period had been a week.

Prescribed secondary contributors

93. In relation to any payment of earnings to or for the benefit of a mariner in respect of employment to which the provisions of regulation 88 of these regulations apply, where the person employing the mariner does not satisfy the conditions specified in regulation 87(1)(c) of these regulations, but the person who pays the mariner those earnings does satisfy either of those conditions, that person shall be treated as the secondary contributor, whether or not he makes the payment as agent for the employer.

Payments to be disregarded

94.—(1) Without prejudice to the generality of the provisions of regulation 19 of these regulations and subject to the provisions of the next succeeding paragraph, for the purposes of earnings-related contributions, there shall be excluded from the computation of a person's earnings any payment in so far as it is—

- (a) in the case of the payment being in respect of employment as a seaman within the meaning of Part V of Schedule 1 to these regulations, either—

- (i) an interim payment of earnings by way of an advance, or
 - (ii) a payment to some other person of any part of such a seaman's earnings allotted by him to that person;
- (b) in the case of the payment being in respect of employment as a mariner—
- (i) a payment of a special payment while sick abroad (as defined by the National Maritime Board);
 - (ii) a payment to him by the Department of Trade with the consent of his employer in accordance with the provisions of the Merchant Shipping Act 1906(a) (wages and effects of a seaman who is left behind) in respect of wages deposited owing to a mariner's failure to rejoin his ship.

(2) Nothing in sub-paragraph (a) of the last preceding paragraph shall be construed as preventing any sum deducted on account of any such payment as is specified in that sub-paragraph from another payment of earnings being treated as comprised in those earnings.

Special payments to mariners after terminal payment

95.—(1) This regulation shall relate only to earnings-related contributions collected in accordance with the provisions of Part V of Schedule 1 to these regulations and in this regulation—

- (a) “terminal payment” means a payment of earnings to a mariner in respect of his employment as such at or following the end of a voyage by way of general settlement of the mariner's earnings for that voyage (or, where the voyage includes more than one pay period, for the last of those pay periods);
- (b) “quarterly calculated payment” means a payment for a pay period of 3 calendar months or a payment of earnings of which the whole or the greater part is calculated by reference to one or more periods of 3 calendar months;
- (c) “monthly calculated payment” means a payment for a pay period of a calendar month or a payment of earnings, not being a quarterly calculated payment, of which the whole or the greater part is calculated by reference to a calendar month or calendar months;
- (d) “weekly calculated payment” means a payment of remuneration which is not a quarterly or monthly calculated payment.

(2) Where earnings for overtime work as a mariner earned in any of the last 6 days of a voyage are not included in the terminal payment, then, in respect of any subsequent payment on account of those earnings (not being a payment of less than £1·00) and subject to regulations 94 and 97 of these regulations, the secondary contributor and the mariner shall each be liable to pay an earnings-related contribution of the difference (if any) between the following amounts, that is to say—

- (a) the amount which he would, in accordance with the provisions of regulation 9 or, as the case may be, regulation 89 of these regulations but disregarding the provisions of this regulation, have been

(a) 1906 c. 48.

liable to pay in respect of the terminal payment if it had included the earnings for the said overtime work; and

- (b) the amount which he is or was liable to pay in accordance with the said regulation 9 or the said regulation 89 in respect of the terminal payment.

(3) Except for payments to which the provisions of the preceding paragraph apply and subject to the provisions of regulation 94 of these regulations an earnings-related contribution shall be payable in accordance with the provisions of the succeeding paragraphs of this regulation in respect of any payment of earnings made to a mariner in respect of his employment as such which either—

- (a) is not made before or included in the terminal payment, or
- (b) is made before the terminal payment otherwise than through the master of the ship or vessel or other person from whom the mariner is to receive the terminal payment,

(which payment of earnings is hereinafter in this regulation referred to as an “employer’s payment”).

(4) Notwithstanding the provisions of the preceding paragraph, any payment which is made at the same time as a payment of earnings to which the said regulation 9 or, as the case may be, the said regulation 89 applies shall not be treated as an employer’s payment, but shall be treated for the purposes of the said regulation 9 or, as the case may be, the said regulation 89 as if it were earnings for the pay period in respect of which that other payment is made.

(5) Subject to the provisions of the next succeeding paragraph, in respect of any employer’s payment an employer shall be liable to pay earnings-related contributions as modified by the said regulation 89—

- (a) if the terminal payment is or is to be a weekly calculated payment, as if the employer’s payment were for a pay period of one week;
- (b) if the terminal payment is or is to be a monthly calculated payment, as if the employer’s payment were for a pay period of one calendar month; and
- (c) if the terminal payment is or is to be a quarterly calculated payment, as if the employer’s payment were for a pay period of 3 calendar months.

(6) The earnings-related contributions payable in a case to which the preceding paragraph applies shall be determined—

- (a) if the mariner is still in the employment of the employer making the employer’s payment at the time that payment is made, as if, in respect of the pay period of one week or one calendar month or 3 calendar months, as the case may be, the employer in addition had paid his basic wage to the mariner and appropriate earnings-related contributions on behalf and in respect of him in respect of that basic wage; or

- (b) if the mariner is not still employed by the employer making the employer's payment at the time that payment is made, as if the employer had paid the mariner no other earnings in respect of that pay period.

Application of the Act and regulations

96.—(1) The provisions of Part I of the Act and so much of Part IV thereof as relates to contributions and the regulations made under those provisions shall, so far as they are not inconsistent with the provisions of this Case, apply to mariners with this modification, that, where a mariner is, on account of his being at sea or outside Great Britain by reason of his employment as a mariner, unable to perform an act required to be done either forthwith or on the happening of a certain event or within a specified time, he shall be deemed to have complied therewith if he performs the act as soon as is reasonably practicable, although after the happening of the event or the expiration of the specified time.

(2) In relation only to earnings-related contributions collected in accordance with the provisions of Part V of Schedule 1 to these regulations, regulation 17 of these regulations (annual maximum) shall apply to earnings paid to or for the benefit of a mariner for his employment as such, subject to the condition that any payment of earnings for any voyage period, which falls partly in two or more years, shall be apportioned between those years proportionately to the length of the part of the voyage period occurring in each such year.

Special provisions concerning earnings-related contributions

97.—(1) This regulation shall apply only if earnings-related contributions payable in respect of a mariner's earnings are collected in accordance with the provisions of Part V of Schedule 1 to these regulations and during the voyage period one or more than one change occurs in any one or more of the following figures applicable in respect of the mariner's employment—

- (a) the percentage rate for primary or secondary Class 1 contributions specified in section 4(6) of the Act;
- (b) the contracted-out percentage applying in the case of a primary or secondary Class 1 contribution in section 27(2) of the Pensions Act;
- (c) the figure specified in regulation 89(1)(a) or (b) of these regulations by which the percentage rate of secondary Class 1 contributions is reduced;
- (d) the lower or upper earnings limits for Class 1 contributions specified under section 1 of the Pensions Act.

(2) Except for any payment of earnings which is an employer's payment within the meaning of regulation 95(3) of these regulations and subject to the following provisions of this regulation, where earnings are paid to or for the benefit of a mariner for his employment as such in respect of a voyage period which falls partly in one year and partly in one or more other years and during that voyage period a change such as is specified in the last preceding paragraph occurs, for the purposes of liability for and calculation of earnings-related contributions—

- (a) the earnings shall be apportioned between the years in which the voyage period falls proportionately to the length of the part of the voyage period occurring in each such year; and

- (b) each amount of earnings so apportioned shall be treated as a payment of earnings made at the end of the year or, if the voyage period ends before the end of the year, of the part of the year to which it is apportioned; and
- (c) the earnings period in respect of each amount shall be the length of the period to which that amount is apportioned.

(3) Notwithstanding the provisions of sub-paragraphs (b) and (c) of the last preceding paragraph and subject to the provisions of the next succeeding paragraph—

- (a) except where the earnings are paid in the year in which the voyage period begins, where the voyage period begins on or after 6th March in any year the amount apportioned to that year shall be treated as a payment of earnings made at the end of the next succeeding year or, as the case may be, part of the year and the earnings period in respect of that amount and in respect of the amount apportioned to the next succeeding year or, as the case may be, part of the year shall, unless it is a voyage period to which the provisions of sub-paragraph (c) of this paragraph apply, be the period beginning on the date on which the voyage period commences and ending on the date on which the payment of earnings is treated as made;
- (b) except where the voyage period begins on or after 6th March in any year and ends before 6th May in the immediately succeeding year in which case the provisions of the last preceding sub-paragraph shall apply, where the voyage period ends before 6th May in any year the amount apportioned to that year shall be treated as a payment of earnings made at the end of the immediately preceding year and the earnings period in respect of that amount and in respect of the amount apportioned to the immediately preceding year shall, unless it is a voyage period to which the provisions of sub-paragraph (c) of this paragraph apply, be—
 - (i) in a case where the voyage period began in the immediately preceding year, the voyage period;
 - (ii) in any other case, the period beginning on 6th April of the immediately preceding year and ending on the date on which the voyage period ends;
- (c) where the voyage period begins on or after 6th March in any year, continues throughout the immediately succeeding year, and ends before 6th May in the following year, the earnings period in respect of the amount apportioned to each year of the voyage period, shall be the voyage period.

(4) Where the voyage period extends beyond the date on which the earnings are paid, any amount apportioned to any year after the year in which the earnings are paid shall be treated as a payment of earnings made at the end of the year in which the earnings are paid and the earnings period in respect of that amount and in respect of the amount apportioned to the year in which the earnings are paid and, where applicable, in respect of any amount which is treated under the provisions of paragraph (3)(a) above as paid at the end of the year in which the earnings are paid, shall be—

- (a) in a case where the voyage period began in the year in which the earnings are paid, the voyage period;

- (b) in a case where the voyage period began on or after 6th March in the year immediately preceding the year in which the earnings are paid, the voyage period;
- (c) in any other case, the period beginning on 6th April of the year in which the earnings are paid and ending on the date on which the voyage period ends.

(5) Where the earnings period—

- (a) is less than a week that period shall be treated as a week;
- (b) exceeds a week or a whole multiple of a week by part of a week,
 - (i) if that part of the week is a period in excess of 3 days, that part of the week shall be treated as a week;
 - (ii) if that part of the week is a period of 3 days or less, that part of the week shall be disregarded (and the mariner's earnings in respect of his employment as such during that part of the week shall be assessed as if it were earnings for employment in the week immediately preceding that part of the week).

(6) Where earnings are apportioned between the years in which the voyage period falls in accordance with the foregoing provisions of this regulation, contributions paid in respect of each amount of earnings so apportioned shall be treated as paid in respect of the year to which that amount is apportioned.

Modification in relation to share fishermen of Part I of the Act and so much of Part IV thereof as relates to contributions

98. Part I of the Act and so much of Part IV thereof as relates to contributions shall apply to share fishermen with the modification that—

- (a) employment as a share fisherman shall be employment as a self-employed earner notwithstanding that it is not employment in Great Britain;
- (b) as respects liability of a share fisherman to pay Class 2 contributions in respect of his employment as a share fisherman, the provisions of regulation 87(1)(a) and (b) and (2) of these regulations (conditions of domicile or residence for contribution liability for mariners) shall apply as if the share fisherman were a mariner and as if the reference in the said regulation 87(1) to an employed earner were a reference to a self-employed earner and as if the words "or on behalf, or in respect, of" were omitted;
- (c) for the purposes of entitlement to unemployment benefit, the weekly rate of any Class 2 contributions payable by a share fisherman for any contribution week while he is ordinarily employed as a share fisherman shall, notwithstanding the provisions of section 7(1) of the Act (Class 2 contributions), be £3·30 or such other sum as may from time to time be prescribed;
- (d) regulations 17(1), 67 and 76 of these regulations (annual maximum) shall apply to contributions payable at the weekly rate specified in the last preceding paragraph as if references in those regulations to Class 2 contributions included, as may be appropriate, references to Class 2 contributions at that rate;

- (e) regulation 23 of these regulations (exception from liability for Class 2 contributions) shall apply to a share fisherman as if there were included at the end of paragraph (1)(a) of that regulation the words “or is entitled to unemployment benefit or, but for a failure to satisfy the contribution conditions for that benefit, he would be so entitled”;
- (f) regulation 51(1) of these regulations (application for contribution cards) shall apply to a share fisherman with the modification that every person in employment as a share fisherman shall apply to a local office designated by the Secretary of State for a special contribution card, unless there is already current in respect of him such a card;
- (g) in so far as Class 4 contributions in respect of the profits or gains of a share fisherman in respect of his employment as such are not collected by the Inland Revenue under section 9(3) of the Act (assessment and collection etc. of Class 4 contributions) the provisions of regulations 71 to 78 of these regulations (special Class 4 contributions) shall apply as if the share fisherman were a person to whom section 10(1)(a) and (b) of the Act applies (Class 4 contributions for persons treated under section 2(2)(b) of the Act as self-employed earners).

CASE D—MARRIED WOMEN AND WIDOWS

Interpretation

99.—(1) In the provisions of this Case, unless the context otherwise requires—

“the former regulation 91” and “the former regulation 94” mean respectively regulation 91 and regulation 94 of the Social Security (Contributions) Regulations 1975(a) before section 3(1) of the Pensions Act (married women and widows) came into force and sections 5(3) and 130(2) of the Act (Class 1 reduced rate and married women and widows) were repealed;

“personal death benefit” means any death benefit which, apart from any regulations made under section 85 of the Act, is payable to a person otherwise than in respect of another person who is a child or an adult dependant;

“Personal Injuries Scheme” means any scheme made under the Personal Injuries (Emergency Provisions) Act 1939(b) or under the Pensions (Navy, Army, Air Force and Mercantile Marine) Act 1939(c);

“qualifying widow” has the meaning assigned to it in regulation 100(1) and (8);

“reduced rate” means the rate specified in regulation 104;

“Service Pensions Instrument” means those provisions and only those provisions of any Royal Warrant, Order in Council or other instrument (not being a 1914–1918 War Injuries Scheme) under which a death or a disablement pension (not including a pension calculated by reference to length of service) and allowances for dependants payable with either such pension may be paid out of public funds in respect of any

(a) S.I. 1975/492.

(b) 1939 c. 82.

(c) 1939 c. 83.

death or disablement, wound, injury or disease due to service in the naval, military or air forces of the Crown or in any nursing service or other auxiliary service of any of the said forces or in the Home Guard or in any other organisation established under the control of the Defence Council or formerly established under the control of the Admiralty, the Army Council or the Air Council;

“1914–1918 War Injuries Scheme” means any scheme made under the Injuries in War (Compensation) Act 1914(a) or under the Injuries in War Compensation Act 1914 (Session 2)(b) or under any Government scheme for compensation in respect of persons injured in any merchant ship or fishing vessel as the result of hostilities during the 1914–1918 War.

(2) Where by any provision of this Case any notice is required to be or may be given to the Secretary of State it may be so given at a local office of the Department of Health and Social Security or sent to such an office, and if it is sent by post it shall be deemed to have been given on the date of posting.

(3) Where by any provision of this Case notice is required to be or may be given in writing it shall be given on a form approved by the Secretary of State or in such other manner, being in writing, as he may accept as sufficient in any case.

Elections by married women and widows

100.—(1) A woman who on 6th April 1977 (being the date on which section 3(1) of the Pensions Act (married women and widows) came into force) was married or was a widow who satisfied the conditions prescribed in paragraph (8) of this regulation (hereafter in the provisions of this Case called “a qualifying widow”) may—

- (a) elect that her liability in respect of primary Class 1 contributions shall be a liability to contribute at the reduced rate; and
- (b) elect that she shall be under no liability to pay Class 2 contributions.

(2) Any election made for the purpose of paragraph (1)(a) of this regulation shall be treated as an election made for the purpose of paragraph (1)(b) thereof and any election made for the purpose of paragraph (1)(b) of this regulation shall be treated as made for the purpose of paragraph (1)(a) thereof and any revocation of an election for the one purpose shall be treated also as a revocation of an election for the other purpose.

(3) Where a woman has made such election, any primary Class 1 contributions payable in respect of any earnings paid to or for the benefit of that woman in the period during which the election has effect under the following provisions of this Case shall be at the reduced rate and she shall be under no liability to pay any Class 2 contribution for any contribution week in that period.

(4) Subject to the provisions of regulation 107 of these regulations, no woman shall be entitled to make an election specified in paragraph (1) of this regulation after 11th May 1977.

(a) 1914 c. 30.

(b) 1914 c. 18 (5 & 6 Geo. 5).

(5) Every such election shall be made by notice in writing to the Secretary of State and by notice in writing to the Secretary of State may be revoked by the woman who made the election.

(6) Any such revocation may be cancelled by notice in writing to the Secretary of State before the end of the year in which the notice of revocation was given and upon such cancellation shall cease to have effect.

(7) Every woman who makes an election under this regulation shall furnish such certificates, documents, information and other evidence for the purpose of enabling the Secretary of State to consider the validity of the election as the Secretary of State may require.

(8) The conditions referred to in paragraph (1) of this regulation are that the widow—

- (a) was entitled to—
 - (i) widow's benefit under the Act, or
 - (ii) any personal death benefit which was payable to her as a widow under the provisions of Chapter IV of Part II of the Act at a weekly rate which was not less than the basic component specified for the time being in Section 6(1)(a) of the Pensions Act (rate of Category A retirement pension), or
 - (iii) any personal death benefit by way of pension or allowance payable to her as a widow under any Personal Injuries Scheme or Service Pensions Instrument or any 1914–1918 War Injuries Scheme (not being a pension or allowance calculated by reference to the needs of the beneficiary), the rate of which is as set out in head (ii) above, or
 - (iv) benefit under section 39(4) of the Act (retirement benefits for the aged), other than a Category C retirement pension; and
- (b) was not disentitled to payment of any such benefit by reason of her cohabiting with a man as his wife.

Duration of effect of election

101.—(1) Subject to the provisions of the next succeeding paragraph, any election made under the last preceding regulation shall have effect from and including 6th April 1977 (being the date on which section 3(1) of the Pensions Act (married women and widows) came into force) until whichever of the following events first occurs after the date of the election, namely—

- (a) the date on which the woman ceases to be married otherwise than by reason of the death of her husband; or
- (b) the end of the year in which she ceases to be a qualifying widow; or
- (c) the end of any two consecutive years which begin on or after 6th April 1978 and in which the woman who made the election has no earnings in respect of which any primary Class 1 contributions are payable in those years and in which that woman is not at any time a self-employed earner; or

- (d) in the case of a revocation of an election which has not been cancelled in accordance with the provisions of regulation 100(6) of these regulations, at the end of the year in which the notice of revocation is given; or
- (e) where, in any year, a payment is made by or on behalf of the woman on account of primary Class 1 contributions at the standard rate in the erroneous belief that such contributions were payable by her or on her behalf in that year, and the woman wishes to pay primary Class 1 contributions at the standard rate from and including the beginning of the year next following that year, the end of the year in respect of which the payment is made.

(2) Where a woman to whom the provisions of paragraph (1)(b) of this regulation apply remarries or again becomes a qualifying widow before the end of the year in which she ceases to be a qualifying widow, that woman's election shall, notwithstanding those provisions, but without prejudice to the application of paragraph (1)(c), (d) or (e) of this regulation, continue to have effect from the end of the said year.

Continuation of elections under the former regulation 91

102. Where, but for the former regulation 91 ceasing to have effect on 6th April 1977 (being the date on which section 130(2) of the Act (married women and widows) was repealed) an election made under that regulation before that date would have continued to have effect on that date, that election shall be treated as made under regulation 100 of these regulations and the provisions of this Case shall apply accordingly.

Continuation of elections on widowhood

103.—(1) Where on 6th April 1977 (being the date on which section 3(1) of the Pensions Act (married women and widows) came into force) a woman was married and thereafter becomes a widow or was a widow and thereafter remarries and again becomes a widow, any election—

- (a) which, before the death of the husband which so renders or, as the case may be, again so renders the woman a widow, that woman has made under regulation 100 of these regulations; or
- (b) which, before that death, the woman is, by virtue of regulation 102 of these regulations, treated as having made under the said regulation 100; and, in either case,
- (c) which is still effective at the time of the husband's death,

shall, subject to the provisions of paragraphs (3) and (4) of this regulation and notwithstanding the provisions of regulation 101 of these regulations, continue to have effect until the end of the appropriate period.

(2) The end of the appropriate period referred to in the last preceding paragraph is—

- (a) the end of the second year specified in paragraph (1)(c) of regulation 101 of these regulations or the end of the year specified in paragraph (1)(d) or (e) of that regulation, whichever first occurs; or
- (b) subject to the provisions of the last preceding sub-paragraph and to the following provisions of this regulation—

- (i) where the husband's death occurs before 1st October in any year, the end of that year;
- (ii) where the husband's death occurs after 30th September in any year, the end of the year next following the year in which the said 30th September occurs.

(3) Subject to the provisions of regulation 101(1)(c), (d) and (e) of these regulations and of the next succeeding paragraph, if at the end of the year specified in head (i) or, as the case may be, head (ii) of paragraph (2)(b) of this regulation there is pending a claim or application made by or on behalf of the woman as a widow within 182 days (including Sundays) of her husband's death for any benefit specified in head (i) or (iv) or, irrespective of its rate, in head (ii) or (iii) of regulation 100(8)(a) of these regulations, the end of the appropriate period shall be the end of the year in which the claim or application is determined.

(4) If at the end of the year specified in head (i) or (ii) of the said paragraph (2)(b) or, as the case may be, in the last preceding paragraph the woman is a qualifying widow or married, the election shall, unless at that time she is a person to whom paragraph (1)(c), (d) or (e) of the said regulation 101 applies, continue to have effect.

Reduced rate

104. On and after 6th April 1978 the reduced rate of contribution for the purposes of section 3(2)(a) of the Pensions Act (married women and widows) shall be 2 per cent.

Class 3 contributions

105. A woman who has made, or is under the foregoing provisions of this Case treated as having made, an election under regulation 100 of these regulations shall be precluded from paying Class 3 contributions for any year in respect of the whole of which that election has effect.

Certificates of election

106.—(1) As respects any election made, or by virtue of regulation 102 of these regulations treated as made, under regulation 100 thereof—

- (a) where a woman makes an election under the said regulation 100, the Secretary of State shall without charge issue to that woman a certificate of election (hereafter in this regulation called a "certificate");
- (b) where a woman is treated as making such election, the Secretary of State shall on application without charge issue to that woman a certificate; and
- (c) in either of the aforesaid cases the certificate shall remain the property of the Secretary of State.

(2) A woman to whom a certificate has been issued shall be responsible for its custody unless and until it is delivered to a secondary contributor or returned to the Secretary of State.

(3) A woman in respect of whom an election has effect in accordance with the foregoing provisions of this Case shall, if any primary Class 1 contribution is payable by her or on her behalf, deliver forthwith to the secondary contributor a certificate which is currently in force in respect of her and the secondary contributor shall thereupon become responsible for its custody unless and until it is redelivered to the woman or to the Secretary of State.

(4) Where a certificate has ceased to be in force, the woman in respect of whom the certificate was issued shall forthwith return it to the Secretary of State and for that purpose, if at the time when the certificate ceases to be in force it is in the custody of a secondary contributor, that contributor shall forthwith return it to the woman.

(5) The Secretary of State may at any time require the person for the time being responsible for the custody of a certificate to return it to the Secretary of State, and if at that time the election to which that certificate relates continues to have effect, the Secretary of State shall issue to that person a replacement certificate.

(6) Where a woman in respect of whom an election has effect has more than one employed earner's employment the Secretary of State shall issue to her without charge, on her application, such number of certificates as will enable her to comply with the requirements of paragraph (3) of this regulation in relation to each secondary contributor.

(7) Where a certificate has been lost or destroyed the person responsible for its custody shall inform the Secretary of State of that loss or destruction.

(8) When a woman gives notice in writing to the Secretary of State that she revokes an election she shall—

- (a) if the certificate is with a secondary contributor, recover it from him;
- (b) redeliver the certificate to the Secretary of State.

(9) Where a secondary contributor holds a certificate and—

- (a) is informed by the woman to whom it was issued that she intends to revoke her election and is requested to return the certificate to her so that she may return it to the Secretary of State, or
- (b) the employment by him of the woman to whom the certificate was issued has terminated,

he shall return the certificate to her forthwith.

(10) Where under the foregoing provisions of this Case an election has been made by a woman to pay primary Class 1 contributions at the reduced rate and that election ceases to have effect, it shall be the duty of that woman to inform the secondary contributor accordingly.

(11) Any certificate issued for the purpose of an election made or deemed to have been made under the former regulation 91 shall, if by virtue of

regulation 102 of these regulations the election is treated as made under regulation 100 of these regulations, continue in force for the purposes of that regulation.

Special transitional provisions consequent upon passing of Pensions Act

107.—(1) Any person to whom this regulation applies—

- (a) shall, in respect of any liability for a primary Class 1 contribution, be liable to pay that contribution at the reduced rate; and
- (b) shall not be liable to pay any Class 2 contributions which, apart from the provisions of this paragraph, she would be liable to pay.

(2) Subject to the following provisions of this regulation, the person to whom this regulation applies is any woman—

- (a) to whom, before 6th April 1977 being the date on which section 3(1) of the Pensions Act (married women and widows) came into force and sections 5(3) and 130(2) of the Act (Class 1 reduced rate and married women and widows) were repealed, the provisions of the said section 5(3) or of the former regulation 94 (newly widowed women) applied and to whom those provisions would have continued to apply but for those provisions having been repealed or, as the case may be, having ceased to have effect on that date; or
- (b) who, not being a person to whom regulation 103 of these regulations applies—
 - (i) on the date on which the said section 3(1) came into force was a married woman and became a widow during the period from and including that date to 6th April 1978; or
 - (ii) on the first aforesaid date was a qualifying widow and thereafter remarried and again became a widow during that period; or
- (c) who on the date on which the said section 3(1) came into force was married or a qualifying widow and had attained the age of 59.

(3) In the case of a woman specified in sub-paragraph (a) or (b) of the last preceding paragraph, the provisions of paragraph (1) of this regulation shall, subject to the provisions of paragraphs (4) and (5) of this regulation, apply only during the period which—

- (a) in the case of a woman specified in the said sub-paragraph (a)—
 - (i) began at the beginning of the year in which the said section 3(1) came into force; and
 - (ii) ended at the end of that year;
- (b) in the case of a woman specified in the said sub-paragraph (b)—
 - (i) began on the date on which that woman became or, as the case may be, again became a widow; and
 - (ii) ends at the end of whichever of the two periods specified in regulation 103(2)(b) of these regulations is appropriate in her case in so far as that regulation relates to the date of the death of the husband.

(4) In the case of a woman to whom the provisions of sub-paragraph (a) or (b) of the last preceding paragraph apply, those provisions shall be subject

to the provisions of regulation 103(3) of these regulations and to the provisions of the next succeeding paragraph of this regulation with the modification that—

- (a) in the said regulation 103(3) the reference to sub-paragraphs (d) and (e) of regulation 101(1) of these regulations shall be omitted;
- (b) in so far as the provisions of regulation 101(1)(c) of these regulations are incorporated in the said regulation 103(3) as modified for the purposes of this regulation, references in the said regulation 101(1)(c) to any election made under regulation 100 of these regulations and to a woman who made the election shall respectively be construed as references to the application of paragraph (1) of this regulation and to the woman to whom that paragraph applies.

(5) Any woman who—

- (a) was a person who by virtue of paragraph (1) of this regulation—
 - (i) was, in respect of any liability for a primary Class 1 contribution, liable to pay that contribution at the reduced rate; or
 - (ii) was not liable to pay any Class 2 contribution which apart from the provisions of that paragraph she would have been liable to pay; but
- (b) by virtue of the foregoing provisions of this regulation that paragraph ceases so to apply; and
- (c) has not, in relation to the application of the said paragraph (1), given the notice prescribed in paragraph (7) of this regulation,

may, subject to the conditions prescribed in the next succeeding paragraph, make an election under and in accordance with regulation 100 of these regulations, notwithstanding that she has not done so before the date prescribed therein, and the foregoing provisions of this Case shall apply accordingly from the end of the year in which paragraph (1) of this regulation ceases to apply to her as aforesaid.

(6) The conditions referred to in the last preceding paragraph are that the woman—

- (a) shall make the election not later than 11th May next following the end of the last aforesaid year; and
- (b) is, at the beginning of the year next following the year in which the said paragraph (1) so ceases to apply, married or a qualifying widow.

(7) Any woman to whom, by virtue of paragraph (2)(a) or (b) of this regulation, the provisions of paragraph (1) thereof apply may give notice in writing to the Secretary of State that she does not wish those provisions to apply to her and upon the giving of such notice those provisions shall accordingly cease to apply.

Deemed election of married women and widows excepted from contribution liability under former principal Act

108. Where as respects a woman immediately before the appointed day there is, or is deemed to be, in issue a current certificate of exception under

regulation 9(3) or (4A) of the National Insurance (Contributions) Regulations 1969(a) (exception for certain widows), or there is current an election under regulation 2(1)(a) of the National Insurance (Married Women) Regulations 1973(b) (married women who are employed persons), or a woman then is, or but for any exception under or by virtue of another provision of the former principal Act(c) would be, excepted under regulation 3(1)(a) of those regulations (married women who are self-employed persons) from liability for contributions as a self-employed person under that Act and in any of these cases on that day the woman is a widow or, as the case may be, a married woman, that woman shall be deemed to have made an election under the former regulation 91.

Special transitional provisions regarding deemed elections

109.—(1) Where by virtue of regulation 108 of these regulations a woman is deemed to have made an election under the former regulation 91, the following provisions of this regulation shall apply.

(2) Before the woman first becomes liable to pay a primary Class 1 contribution she may revoke any such election by notice in writing given to the Secretary of State and, if she so specifies in the said notice, the revocation shall have effect from and including the beginning of the year in which the notice is given.

(3) If no notice of revocation is given—

- (a) in the first year (not being more than 2 years after 6th April 1978) in which the woman becomes liable to pay primary Class 1 contributions—
- (i) she shall be entitled to choose whether with effect from the beginning of that year, to pay such contributions at the standard rate or at the reduced rate; and
 - (ii) she shall notify any secondary contributor at which rate to pay such contributions on her behalf; and
 - (iii) such secondary contributor shall pay those contributions at that rate until the woman notifies him to the contrary in accordance with the provisions of regulation 106(10) of these regulations;
- (b) if in the said first year (not being more than 2 years after 6th April 1978) any primary Class 1 contribution at the standard rate is paid by or on behalf of the woman, unless it is shown to the satisfaction of the Secretary of State that the woman did not intend thereby to revoke the election she shall be deemed to have revoked the election.

Application of regulations 99 to 107 to elections and revocation of elections deemed made under regulations 108 and 109

110.—(1) Subject to the provisions of the next succeeding paragraph, regulations 99 to 107 of these regulations, save only in so far as inconsistent with regulations 108 and 109 thereof, shall apply to any election deemed to

(a) S.I. 1969/1696; relevant amending instrument is S.I. 1970/1580. (b) S.I. 1973/693.
(c) See, e.g. National Insurance Act 1965 (1965 c. 51) section 10(1) and S.I. 1969/1696, regulations 3, 6, 7(1), 11 and 12.

have been made under the former regulation 91 by virtue of regulation 108 of these regulations as if it had been made under, and in accordance with, the provisions of regulation 100 of these regulations except that the Secretary of State shall not be obliged to issue a certificate of election, and as if any revocation which is deemed to be made under the last preceding regulation were made under, and in accordance with, the provisions of regulation 100(5) of these regulations.

(2) Where a woman who under regulation 108 of these regulations is not liable for a primary Class 1 contribution otherwise than at the reduced rate and to whom no certificate of election under the Act has been issued becomes employed in employed earner's employment, she shall make application in writing to the Secretary of State for such a certificate and, notwithstanding the provisions of the last preceding paragraph, the Secretary of State shall issue such a certificate to her.

Savings

111. For the purpose of facilitating the introduction of the scheme of social security contributions within the meaning of paragraph 9(1)(a)(i) of Schedule 3 to the Social Security (Consequential Provisions) Act 1975(a), the following provisions of the National Insurance (Married Women) Regulations 1973(b) shall be saved, that is to say, regulations 2(2) (married women who are employed persons), 3(2) (married women who are self-employed persons), 4(2) (married women who are non-employed persons) and 16 (notice of marriage).

Modifications of the Act

112. The provisions of the Act shall have effect as respects married women and widows subject to the modifications contained in the provisions of this Case.

CASE E—MEMBERS OF THE FORCES

Establishments and organisations of which Her Majesty's forces are taken to consist

113. Except in relation to the employment in any of the establishments or organisations specified in Part I of Schedule 3 to these regulations of any person specified in Part II of that Schedule, Her Majesty's forces shall, for the purposes of the Act, be taken to consist of the establishments and organisations specified in the said Part I, and the following provisions of this Case shall be construed accordingly.

Treatment of serving members of the forces as present in Great Britain

114. For the purposes of regulation 119(1)(a) of these regulations (conditions as to residence or presence in Great Britain) a serving member of the forces shall in respect of his employment as such be treated as present in Great Britain.

(a) 1975 c. 18.

(b) S.I. 1973/693.

Reduction of rate of Class 1 contributions

115.—(1) Where, as respects a person who is a serving member of the forces, any Class 1 contribution is payable in respect of that person's earnings as such a member and the amount of the contribution would, but for the provisions of this regulation, be a percentage of those earnings in accordance with the provisions from time to time being of section 4(6) of the Act (percentage rates of Class 1 contributions), the percentage rate of that contribution shall be reduced—

- (a) in the case of a primary contribution, where the percentage would be
 - (i) at the standard rate, by 0·7;
 - (ii) at the reduced rate, by 0·15;
- (b) in the case of a secondary contribution, by 1·3.

(2) For the purpose of the calculation of the earnings-related contributions payable at a rate reduced in accordance with the provisions of the last preceding paragraph, the provisions of regulation 9(1) of these regulations shall apply.

(3) In the alternative the contributions specified in paragraph (1) of this regulation may be calculated in accordance with the appropriate scale prepared by the Secretary of State and in that case the provisions of regulation 9(2), (3), (4) and (5) of these regulations shall apply.

Treatment of contributions paid after due date

116. For the purpose of any entitlement to benefit any earnings-related contribution paid after the due date within the meaning of Part IV of these regulations in respect of earnings paid to or for the benefit of a person in respect of his employment as a member of the forces shall be treated as paid on that date.

Special provisions concerning earnings-related contributions

117.—(1) For the purposes of earnings-related contributions, there shall be excluded from the computation of a person's earnings as a serving member of the forces any payment in so far as it is—

- (a) a payment of or in respect of an Emergency Service grant; or
- (b) a payment of any sum referred to in section 366 of the Income and Corporation Taxes Act 1970(a); or
- (c) a payment of liability bounty in recognition of liability for immediate call-up in times of emergency.

(2) The earnings period for a person who is a serving member of the forces shall be as follows—

- (a) in the case of a person serving in the regular naval, military or air forces of the Crown, whatever is the accounting period from time to time applying in his case under the Naval Pay Regulations or, as the

(a) 1970 c. 10.

case may be, the Army Pay Warrant, Queen's Regulations for the Army or Queen's Regulations for the Royal Air Force; or

- (b) in the case of a person undergoing training in any of the establishments or organisations specified in paragraphs 2 to 15 of Part I of Schedule 3 to these regulations, a month.

Application of the Act and regulations

118. The provisions of Part I of the Act and so much of Part IV thereof as relates to contributions and the regulations made under those provisions shall, in so far as they are not inconsistent with the provisions of this Case, apply in relation to persons who are serving members of the forces with this modification that where any such person is, on account of his being at sea or outside Great Britain or, as the case may be, Northern Ireland by reason of his employment as a serving member of the forces, unable to perform an act required to be done either forthwith or on the happening of a certain event or within a specified time, he shall be deemed to have complied therewith if he performs the act as soon as is reasonably practicable, although after the happening of the event or the expiration of the specified time.

CASE F—RESIDENCE AND PERSONS ABROAD

Conditions as to residence or presence in Great Britain

119.—(1) Subject to the following provisions of this regulation, for the purposes of section 1(6) of the Act (conditions as to residence or presence in Great Britain for liability or entitlement to pay Class 1 or Class 2 contributions or entitlement to pay Class 3 contributions) the conditions as to residence or presence in Great Britain shall be—

- (a) as respects liability of an employed earner to pay primary Class 1 contributions in respect of earnings for an employed earner's employment, that the employed earner is resident or present in Great Britain (or but for any temporary absence therefrom would be present therein) at the time of that employment or is then ordinarily resident in Great Britain;
- (b) as respects liability for secondary Class 1 contributions, that the person who, but for any conditions as to residence or presence in Great Britain (including the having of a place of business therein), would be the secondary contributor (in the following provisions of this Case referred to as "the employer") is resident or present in Great Britain when such contributions become payable or then has a place of business in Great Britain, so however that nothing in this provision shall prevent the employer paying the said contributions if he so wishes;
- (c) as respects entitlement of a self-employed earner to pay Class 2 contributions, that that earner is present in Great Britain in the contribution week for which the contribution is to be paid;
- (d) as respects liability of a self-employed earner to pay Class 2 contributions, that the self-employed earner is ordinarily resident in Great Britain or, if he is not so ordinarily resident, that before the period in respect of which any such contributions are to be paid he has been

resident in Great Britain for a period of at least 26 out of the immediately preceding 52 contribution weeks under the Act or the former principal Act or partly under the one and partly under the other;

- (e) as respects entitlement of a person to pay Class 3 contributions for any year, that that person is resident in Great Britain during the course of that year.

(2) Where a person is ordinarily neither resident nor employed in the United Kingdom and, in pursuance of employment which is mainly employment outside the United Kingdom by an employer whose place of business is outside the United Kingdom (whether or not he also has a place of business therein) that person is employed for a time in Great Britain as an employed earner and but for the provisions of this paragraph the provisions of sub-paragraph (a) of the last preceding paragraph would apply, the conditions prescribed in that sub-paragraph and in sub-paragraph (b) of that paragraph shall apply subject to the proviso that no primary or secondary Class 1 contribution shall be payable in respect of the earnings of the employed earner for such employment after the date of the earner's last entry into Great Britain and before he has been resident in Great Britain for a continuous period of 52 contribution weeks from the beginning of the contribution week following that in which that date falls.

(3) Where a person to whom the said sub-paragraph (a) would otherwise apply is not ordinarily resident in the United Kingdom and is not a person to whom the provisions of the last preceding paragraph apply, the proviso specified in that paragraph shall nevertheless apply if either—

- (a) during a vacation occurring in a course of full-time studies which that person is pursuing outside the United Kingdom, that person is gainfully employed under a contract of service in Great Britain in temporary employment of a nature similar or related to that course of studies; or
- (b) there exists between him and some other person outside the United Kingdom a relationship comparable with the relationship between an apprentice and his master in Great Britain and that person is gainfully employed under a contract of service in Great Britain in employment which began before he attained the age of 25 and which is of a nature similar or related to the employment under the said relationship outside the United Kingdom.

Payment of contributions for periods abroad

120.—(1) Where an earner is gainfully employed outside Great Britain, and that employment, if it had been in Great Britain, would have been employed earner's employment, that employment outside Great Britain shall be treated as employed earner's employment for the period for which under paragraph (2)(a) of this regulation contributions are payable in respect of the earnings paid to the earner in respect of that employment, provided that—

- (a) the employer has a place of business in Great Britain, and
- (b) the earner is ordinarily resident therein, and
- (c) immediately before the commencement of the employment the earner was resident in Great Britain.

(2) Where under the last preceding paragraph the employment outside Great Britain is treated as an employed earner's employment, the following provisions shall apply in respect of the payment of contributions—

- (a) primary and secondary Class 1 contributions shall be payable in respect of any payment of earnings for the employment outside Great Britain during the period of 52 contribution weeks from the beginning of the contribution week in which that employment begins to the same extent as that to which such contributions would have been payable if the employment had been in Great Britain;
- (b) subject to the provisions of regulation 122 of these regulations, any earner by or in respect of whom contributions are or have been payable under the last preceding sub-paragraph shall be entitled to pay Class 3 contributions in respect of any year during which the earner is outside Great Britain from and including that in which the employment outside Great Britain begins until that in which he next returns there.

Class 2 and Class 3 contributions for periods abroad

121.—(1) Subject to the provisions of regulation 122 of these regulations, a person (other than a person to whom paragraph (2)(a) of the last preceding regulation applies) may, notwithstanding the provisions of regulation 119(1)(c) and (e) of these regulations, if he so wishes and if he satisfies the conditions specified in the next succeeding paragraph, pay contributions in respect of periods during which he is outside Great Britain as follows—

- (a) in respect of any contribution week throughout which he is gainfully employed outside Great Britain otherwise than as an employed earner, he may, if immediately before he last left Great Britain he was ordinarily an employed earner or a self-employed earner, pay a contribution as a self-employed earner;
- (b) in respect of any year which includes a period during which he is outside Great Britain he may pay Class 3 contributions.

(2) The conditions referred to in the last preceding paragraph shall subject to the provisions of paragraph (3) of this regulation be either—

- (a) that the person has been resident in Great Britain for a continuous period of not less than 3 years at any time before the period for which the contributions are to be paid; or
- (b) that there have been paid by or on behalf of that person contributions of the appropriate amount—
 - (i) for each of 3 years ending at any time before the relevant period; or
 - (ii) for each of 2 years so ending and, in addition, 52 contributions under the former principal Act; or
 - (iii) for any one year ending before the relevant period and, in addition, 104 contributions under the former principal Act; or
- (c) that there have been paid by or on behalf of that person 156 contributions under the former principal Act.

(3) In the last preceding paragraph—

- (a) the expression “contributions of the appropriate amount” means contributions under the Act the earnings factor derived from which is not less than 52 times the lower earnings limit for the time being for Class 1 contributions;
- (b) the expression “the relevant period” means the period for which it is desired to pay the Class 2 contribution or, as the case may be, the Class 3 contributions specified in paragraph (1) of this regulation;
- (c) the expression “contributions under the former principal Act” means contributions of any Class under section 3 of the former principal Act in respect of any period.

Conditions of payment of Class 2 or Class 3 contributions for periods abroad

122. Entitlement to pay Class 2 or Class 3 contributions under that last two preceding regulations shall be subject to the following two conditions—

- (a) that the payment is made within the period specified in regulation 27(3)(b)(i) of these regulations; and
- (b) that the payment is made only to the extent to which it could have been made if the contributor had been present in Great Britain and otherwise entitled to make it.

Persons outside Great Britain on the appointed day

123.—(1) Where on the appointed day a person is gainfully employed outside Great Britain in employment which began before that day, the following provisions of this regulation shall apply.

(2) Where the employment outside Great Britain on that day, if it had been in Great Britain, would have been employed earner's employment, the provisions of regulation 120 of these regulations shall apply subject to the modification that in paragraph (2)(a) of that regulation for the period specified therein there shall be substituted the period of 12 calendar months from the beginning of the employment.

(3) Notwithstanding the provisions of regulation 120 of these regulations, where a person is on the appointed day gainfully employed outside Great Britain in continuation of employment outside thereof before that day and in respect of that employment before that day no contributions were payable by or in respect of him as an employed person under the former principal Act, that employment outside Great Britain on and after that day shall not be treated as employed earner's employment under the Act for any period before the date on which he next returns to Great Britain.

(4) Where before the appointed day a person was, during any contribution week within the meaning of the former principal Act, outside Great Britain and under that Act entitled to pay a contribution in respect of that week the provisions of the former principal Act in respect of each payment shall continue to apply with the modification that the period within which such contribution may be paid shall be the period specified in head (i) or, as the case may be, head (ii) of regulation 5(2)(bb) of the National Insurance (Residence and Persons Abroad) Regulations 1948(a), or before 6th April 1978, whichever is the shorter.

(a) S.I. 1948/1275; relevant amending instruments are S.I. 1950/1946, 1956/2021.

PART IX

GENERAL (CONTRIBUTIONS) TRANSITIONAL PROVISIONS

Contribution week immediately preceding the appointed day

124. For the purposes of the former principal Act the period of 6 days which begins on 31st March 1975 and ends on 5th April 1975 shall be a contribution week.

Provisions relating to remuneration received on or after the appointed day in respect of employment before that day

125.—(1) Where a payment of remuneration is made on or after the appointed day, other than a payment to which regulation 11 of the National Insurance (Assessment of Graduated Contributions) Regulations 1973(a) (abnormal pay practices) applies, in respect of employment during a period before that day the following provisions of this regulation shall apply.

(2) Subject to the provisions of paragraph (3) of this regulation, if the employment during the period before the appointed day would, if the Act had then been in force, have been employed earner's employment, and either—

- (a) the employment has ended before that day, but there was no requirement under the former principal Act or the regulations made thereunder to pay contributions under section 3 of that Act (flat-rate contributions) before that day in respect of the person employed in the employment, or, as the case may be, that part of that employment, for which the payment of remuneration is made, or
- (b) the employment has not ended before that day,

the payment specified in paragraph (1) of this regulation shall be treated as earnings in respect of employed earner's employment, and, except in so far as provided in the next succeeding regulation, the provisions of the Act and regulations made thereunder relating to liability for, assessment (including earnings periods), payment, collection and recovery of contributions under the Act shall apply to the said payment and employment in respect of which the payment is made as if the employment has occurred on or after the appointed day.

(3) Where the payment specified in paragraph (1) of this regulation is made to the person employed in an employment specified in paragraph (2)(a) of this regulation (other than an employment as a self-employed person within the meaning of the former principal Act) and that payment is by way of addition to a payment made to him before the appointed day in respect of the same employment during the same period, that payment shall (whether or not there was any requirement such as is specified in the said paragraph (2)(a) with regard to the payment of contributions before the appointed day) also be treated as a payment of earnings in respect of an employed earner's employment and the provisions of the Act and regulations made thereunder as specified in the last preceding paragraph shall apply in respect of that payment.

(4) Subject to the provisions of regulation 127 of these regulations, where in respect of remuneration specified in paragraph (1) of this regulation contributions under the Act are payable by virtue of the foregoing provisions of this regulation in respect of any employment during a period before the appointed

(a) S.I. 1973/1013.

day no contribution in respect of that employment shall be payable under section 3 of the former principal Act (flat-rate contributions) or, as the case may be, under the former Industrial Injuries Act for the period in respect of which the payment of remuneration is made, unless it is a contribution which under the provisions of the former principal Act or, as the case may be, the former Industrial Injuries Act, was required to be paid before the appointed day.

(5) For the avoidance of doubt, the reference in paragraphs (2)(a) and (4) of this regulation to contributions payable under section 3 of the former principal Act shall include any contributions payable under section 1 of the National Health Service Contributions Act 1965(a) and section 27 of the Redundancy Payments Act 1965(b).

Earnings period for contributions payable under regulation 125(2) of these regulations in respect of employment which ended before the appointed day

126. For the purposes of contributions payable under paragraph (2) of the last preceding regulation, where the employment has ended before the appointed day and—

- (a) was employed contributor's employment within the meaning of the former principal Act; and
- (b) the payment of remuneration made on or after that day for that employment is not made at the shortest interval at which payment of remuneration for that employment would normally be made and does not fall to be aggregated under or by virtue of the provisions of the Act with a payment made at the shortest regular interval of payment,

the earnings period shall, in relation to that payment, be treated as one week.

Contributions treated as paid under the former principal Act

127.—(1) Subject to the provisions of paragraphs (2) and (3) of this regulation, where by virtue of paragraph (2) of regulation 125 of these regulations, in so far as that paragraph relates to employment which under the former principal Act was employed contributor's employment, contributions are payable in accordance with the provisions of the Act, a contribution under section 3(a) of the former principal Act (flat-rate contributions), at the rate appropriate to a person who is not in a non-participating employment, shall also be treated as paid by the person employed in the employment, or, as the case may be, that part of that employment, for which payment of the remuneration is made, for each week beginning before the appointed day in the period of the employment for which that payment is made, other than a week for which a contribution under section 3 of the former principal Act is payable by or on behalf of the earner, or has been credited to him as an employed or self-employed person under the former principal Act.

(2) Where under the foregoing provisions of this regulation more than one contribution is treated as paid by any person for any week, not more than one such contribution shall be taken into account for any purpose, and where under those provisions a contribution is treated as paid by any person for a week in respect of which a contribution as a non-employed person has been credited to him under the former principal Act the contribution as a non-employed person shall be disregarded.

(a) 1965 c. 54.

(b) 1965 c. 62.

(3) Subject to the provisions of regulation 124 of these regulations, in this regulation the expression “week” means a contribution week within the meaning of the former principal Act.

Return of insurance cards and emergency cards

128. Any insurance card issued under the former principal Act in respect of any period ending immediately before the appointed day and any emergency card issued under that Act shall within 6 days or such longer time as the Secretary of State may in any special case allow, after the appointed day, be returned to a local office of the Department of Health and Social Security by the person who immediately before the appointed day was, under the provisions of the National Insurance and Industrial Injuries (Collection of Contributions) Regulations 1948(a), responsible for the custody of that card or who thereafter has that card in his possession or under his control.

Recovery of unpaid contributions

129.—(1) For the purposes of enabling unpaid contributions under the former legislation to be recovered, where a person is convicted of an offence mentioned in section 150(1) or (2) of the Act (recovery on prosecution), subject to the provisions of the next succeeding paragraph of this regulation, the provisions of sections 151 and 152(1) to (5) of the Act (proof of previous offences and supplementary provisions) shall apply as if the references therein to contributions under the Act, or to state scheme premiums under Part III of the Pensions Act, were references to contributions under the former legislation.

(2) For the purposes specified in the foregoing provisions of this regulation—

- (a) subsection (3) of the said section 151 shall apply with the modification that for the words “such contributions, or state scheme premiums” there shall be substituted the words “contributions in respect of an employed person under the former legislation”; and
- (b) subsection (4) of the said section 151 shall apply with the modification that for the words “such contributions” there shall be substituted the words “contributions as a self-employed or non-employed person within the meaning of the former principal Act”.

(3) In this regulation—

- (a) “the former legislation” means the former principal Act, section 1 of the National Health Service Contributions Act 1965, section 2(1)(a) of the former Industrial Injuries Act and section 27 of the Redundancy Payments Act 1965; and
- (b) “contributions” includes payments in lieu of contributions for the purposes of Part III of the former principal Act.

Appropriation and savings

130.—(1) Any payment made by a person after the appointed day in respect of any contributions payable under the Act and the former principal Act may,

-
- (a) S.I. 1948/1274; to which there are amendments not relevant to these regulations.

if not expressly or impliedly appropriated by that person to contributions under those Acts and if such appropriation cannot reasonably be obtained, be appropriated under either or both of those Acts by the Secretary of State in such manner as the Secretary of State may direct having regard to the best interests of the person or persons in respect of whom the payments are made.

(2) Without prejudice to the provisions of regulations 84 and 123 of these regulations (special transitional provisions) for the purposes of facilitating the winding up of the system of insurance under the former principal Act and the disposal of matters connected with that system there shall continue in force the enactments specified in the first column of Part I of Schedule 4 to these regulations, save that, in so far as such enactments, other than section 117(1) of the former principal Act (general savings etc.), are also specified in column 1 of Part II of that Schedule, they shall continue in force only to the extent necessary to preserve in force the regulations specified in column 2 of that Part.

PART X

MISCELLANEOUS PROVISIONS

Treatment of contribution week falling into 2 income tax years

131. For the purposes of Class 2 contributions where a contribution week falls partly in one year and partly in another, it shall be treated as falling wholly within the year in which it begins.

Breach of regulations

132. Save as respects any requirement of the regulations contained in Case D of Part VIII of these regulations (married women and widows), if any person contravenes or fails to comply with any requirement of these regulations in respect of which no special penalty is provided, he shall, for each offence, be liable on summary conviction to a penalty not exceeding £50 or, where the offence consists of continuing any such contravention or failure after conviction thereof, £10 for each day on which it is so continued.

Reduction of rate of secondary Class 1 contributions payable in respect of registered dock workers

133.—(1) Where a secondary Class 1 contribution is payable in respect of earnings paid to or for the benefit of a registered dock worker to whom section 81 of the Employment Protection (Consolidation) Act 1978(a) does not apply by virtue of section 145 thereof, the percentage rate of the secondary Class 1 contribution specified in section 4(6)(b) of the Act shall be reduced by 0.2.

(2) For the purpose of the calculation of the secondary Class 1 contributions payable at a rate reduced in accordance with the provisions of the last preceding paragraph, the provisions of regulation 9(1) of these regulations shall apply.

(a) 1978 c. 44.

(3) In the alternative, the contributions specified in the last preceding paragraph may be calculated in accordance with the appropriate scale prepared by the Secretary of State and in that case regulation 9(2), (3), (4) and (5) of these regulations shall apply.

(4) Where a secondary Class 1 contribution has been paid at the percentage rate reduced in accordance with the provisions of paragraph (1) of this regulation, section 134 of the Act (destination of contributions and Treasury supplements) shall, in the case of that contribution, be modified as follows—

- (a) subsection (4) shall apply as if there were a corresponding reduction in “the appropriate employment protection allocation”; and
- (b) subsection (5)(b) shall apply as if, instead of the words following the words “shall be paid by the Secretary of State into” there were the words “the Maternity Pay Fund”.

Modification of section 134(4) of the Act

134. In section 134 of the Act (destination of contributions and Treasury supplements), subsection (4) (meaning of “the appropriate national health service allocation” and “the appropriate employment protection allocation”) shall be modified as follows—

- (a) in the case of contributions paid at the rate reduced or further reduced in accordance with regulation 89(1)(b) of these regulations (modification of section 4(6)(b) of the Act in relation to mariners) the said subsection (4) shall apply as if, instead of the percentage figure specified in paragraph (b) thereof there were the percentage figure, “0·3”;
- (b) in the case of contributions paid at the percentage rate reduced in accordance with regulation 89(1)(a) of these regulations (reduction of rate of secondary Class 1 contributions in respect of mariners), the said subsection (4) shall apply as if, instead of the words following the words “secondary Class 1 contributions, means” there were the words “no sum as on account of contributions to the Redundancy Fund”;
- (c) in the case of contributions paid at the percentage rate reduced in accordance with regulation 115(1)(b) of these regulations (reduction of rate of secondary Class 1 contributions in respect of members of the forces), the said subsection (4) shall apply as if, instead of the words following the words “secondary Class 1 contributions, means” there were the words “no sum as on account of contributions to the Redundancy Fund or the Maternity Pay Fund”.

Northern Ireland

135. The provisions of Case E of Part VIII of these regulations (members of the forces) shall apply to Northern Ireland, but, except for the purposes of those provisions, these regulations shall not so apply.

Revocation and general savings

136.—(1) The regulations specified in column 1 of Schedule 5 to these regulations are hereby revoked to the extent mentioned in column 3 of that Schedule.

(2) Anything whatsoever begun under any regulation revoked by these regulations may be continued under these regulations as if begun under these regulations.

Patrick Jenkin,
Secretary of State for Social Services.

16th May 1979.

Peter Morrison,
J. A. Douglas-Hamilton,
Two of the Lords Commissioners
of Her Majesty's Treasury.

22nd May 1979.

The Commissioners of Inland Revenue hereby concur.
By Order of the Commissioners of Inland Revenue.

J. D. Taylor Thompson,
Secretary.

23rd May 1979.

Regulation 46

SCHEDULE 1

CONTAINING THE PROVISIONS OF THE INCOME TAX (EMPLOYMENTS) REGULATIONS 1973
AS THEY APPLY TO EARNINGS-RELATED CONTRIBUTIONS UNDER THE SOCIAL SECURITY
ACT 1975

PART I

GENERAL

Interpretation

2.—(1) In this Schedule, unless the context otherwise requires—

“the Act” means the Social Security Act 1975;

“aggregated” means aggregated and treated as a single payment under paragraph 1(1) of Schedule 1 to the Act;

“allowable superannuation contributions” means any sum paid by an employee by way of contribution towards a superannuation fund or scheme which is allowed to be deducted as an expense under Schedule E;

“Collector” means a Collector of Taxes;

“contracted-out employment” has the same meaning as in section 30(1) of the Social Security Pensions Act 1975;

“contracted-out percentage” has the meaning assigned to it in section 27(2) of the Social Security Pensions Act 1975;

“deduction card” means a deduction card in the form prescribed or approved by the Commissioners of Inland Revenue or such other document as may be authorised by those Commissioners as a deduction card;

“emoluments” means so much of a person’s remuneration or profit derived from employed earner’s employment as constitutes earnings for the purposes of the Act;

“employed earner” and “employed earner’s employment” have the same meaning as in the Act;

“employee” means any person in receipt of emoluments;

“employer” means any person paying emoluments;

“earnings-related contributions” means contributions payable under the Act by or in respect of an employed earner in respect of employed earner’s employment;

“income tax month” means the period beginning on the 6th day of any calendar month and ending on the 5th day of the following calendar month;

“Inspector” means an Inspector of Taxes;

“national insurance number” has the meaning assigned to it in regulation 1(2) of the Main Regulations;

“year” means income tax year;

references to the “Main Regulations” shall be references to the provisions of this instrument other than the provisions of this Schedule, and references to any regulation of the Main Regulations shall be construed accordingly, but, save as aforesaid references to a Regulation or to “these Regulations” shall be references to a provision or, as the case may be, provisions contained in this Schedule and other expressions have the same meaning as in the Income Tax Acts.

Intermediate employers

3.—(1) Where an employee works under the general control and management of a person who is not his immediate employer, that person (referred to in this Regulation as “the principal employer”) shall be deemed to be the employer for the purpose of these Regulations, and the immediate employer shall furnish the principal employer

with such particulars of the employee's emoluments as may be necessary to enable the principal employer to comply with the provisions of these Regulations.

(2) If the employee's emoluments are actually paid to him by the immediate employer—

- (a) the immediate employer shall be notified by the principal employer of the amount of earnings-related contributions which may be deducted when the emoluments are paid to the employee, and may deduct the amount so notified to him accordingly; and
- (b) the principal employer may make a corresponding deduction on making to the immediate employer the payment out of which the said emoluments will be paid.

Employers' earnings-related contributions

3A. If under these Regulations a person is required to pay any earnings-related contributions which, under section 4(3) of the Act, another person is liable to pay, his payment thereof shall be made as agent for that other person.

Inspectors and Collectors

4A. Any legal proceedings or administrative act authorised by or done for the purposes of these Regulations and begun by one Inspector or Collector may be continued by another Inspector or, as the case may be, another Collector; and any Inspector or Collector may act for any division or other area.

Service by post

5. Any notice or deduction card which is authorised or required to be given, served or issued under these Regulations may be sent by post.

PARTS II AND III

DEDUCTION OF EARNINGS-RELATED CONTRIBUTIONS

Deduction of earnings-related contributions

6.—(1) Every employer, on making any payment of emoluments during any year to an employee in respect of whom he holds a deduction card for that year, may deduct earnings-related contributions in accordance with these Regulations.

(2) An employer shall not be entitled to recover any earnings-related contributions paid or to be paid by him on behalf of any employee otherwise than by deduction in accordance with these Regulations.

Calculation of deduction

13.—(1) Subject to the provisions of paragraph (1A) of this Regulation, on making any payment of emoluments to the employee, the employer may deduct from those emoluments the amount of the earnings-related contributions based thereon which the employee is liable to pay under section 4(3) of the Act.

(1A) Where two or more payments of emoluments fall to be aggregated the employer may deduct the amount of the earnings-related contributions based thereon which are payable by the employee either wholly from one such payment or partly from one and partly from the other or any one or more of the others.

(2A) (a) If the employer on making any payment of emoluments to an employee does not deduct therefrom the full amount of earnings-related contributions which by virtue of these Regulations he is entitled to deduct, he may, subject to the provisions of the next succeeding paragraph of this Regulation, recover the amount so underdeducted by deduction from any subsequent payment of emoluments to that employee during the same year:

(b) this paragraph applies only where—

- (i) the underdeduction occurred by reason of an error made by the employer in good faith; or
- (ii) the emoluments in respect of which the underdeduction occurred are deemed to be earnings by virtue of regulations made under section 18 of the Social Security (Miscellaneous Provisions) Act 1977; or
- (iii) the underdeduction occurred as a result of the cancellation, variation or surrender of the contracting-out certificate issued in respect of the employment in respect of which the payment of emoluments is made; or
- (iv) the underdeduction occurred as a result of the employment in respect of which the payment of emoluments is made not being treated or ceasing to be treated under article 3(1) of the Social Security Pensions Act 1975 (Commencement No. 11) Order 1977(a) as contracted-out employment.

(3A) For the purposes of the provisions of the preceding paragraph of this Regulation—

(a) the amount which by virtue of the provisions of that paragraph may be deducted from any payment, or from any payments which fall to be aggregated, shall—

- (i) in a case to which only sub-paragraph (b)(iv) refers, be an amount in addition to but not in excess of one half of the amount deductible therefrom under the other provisions of these Regulations;
- (ii) in any other case, be an amount in addition to but not in excess of the amount deductible therefrom under the other provisions of these Regulations; and

(b) for the purposes of Part IV of these Regulations an additional amount which may be deducted by virtue of the provisions of that paragraph shall be treated as an amount deductible under these Regulations only in so far as the amount of the corresponding underdeduction has not been so treated.

(6) The employer shall, subject to the provisions of paragraphs (6A) and (6B) of this Regulation, record, either on the deduction card or in such other form as may be authorised by the Commissioners of Inland Revenue or, as the case may be, the Secretary of State, the name and national insurance number of the employee, the appropriate category letter from time to time being in relation to the employee, being the appropriate category letter indicated by the Secretary of State and the following particulars regarding every payment of emoluments which he makes to the employee namely—

- (a) the date of payment;
- (b) the amount of—
 - (i) the emoluments (excluding any allowable superannuation contributions);
 - (ii) all the earnings-related contributions payable on the emoluments otherwise than under paragraph (2A) of this Regulation;
 - (iii) the primary Class 1 contributions under the Act included in the amount recorded under head (ii);
- (c) when the employment is contracted-out employment, the amount of that part of the contributions recorded under head (iii) of the last preceding sub-paragraph which was payable at the contracted-out percentage on earnings above the lower earnings limit.

(6A) Where allowable superannuation contributions are paid by or on behalf of the employee, such contributions shall be separately recorded by the employer.

(6B) Where 2 or more payments of emoluments fall to be aggregated, the employer, instead of recording under heads (ii) and (iii) of paragraph (6) (b) of this Regulation separate amounts in respect of each such payment, shall under each head record a single amount, being the total of the contributions appropriate to the description specified in that head, in respect of the aggregated payments.

(6C) Where the employer does not record on a deduction card the information specified in the last 3 preceding paragraphs of this Regulation, he shall retain the information in the form authorised by the Commissioners of Inland Revenue or, as the case may be, the Secretary of State for a period of 3 years after the end of the income tax year in which the emoluments were paid.

Employee for whom deduction card not held

20.—(1) If the employer makes any payment of emoluments to an employee in respect of whom he does not hold a deduction card and that payment is a payment of emoluments in respect of which earnings-related contributions are payable, he may deduct the amount of the earnings-related contributions based thereon which are payable by the employee and shall keep records on a deduction card which he shall prepare for the purpose and shall do likewise on making any subsequent payment of emoluments to the employee.

PART IV

PAYMENT AND RECOVERY OF EARNINGS-RELATED CONTRIBUTIONS, ETC.

Payment of earnings-related contributions by employer

26.—(1) Within 14 days of the end of every income tax month the employer shall pay to the Collector all amounts of earnings-related contributions due in respect of emoluments paid by him during that income tax month, other than amounts deductible by virtue of Regulation 13(1A) which he did not deduct:

Provided that—

- (a) the employer shall for the purposes of this paragraph be deemed to have deducted from the last of any number of payments of emoluments which fall to be aggregated the amount of earnings-related contributions deductible from those payments which he did not deduct from the earlier payments; and
- (b) where the Inspector has authorised the employer to deduct income tax from each payment of emoluments which he makes to an employee who is in receipt of a fixed salary or wage by reference only to the amount of that payment, payment to the Collector under this paragraph shall be made quarterly, that is to say, the earnings-related contributions deductible during the first 3 income tax months in any year shall be paid together with the corresponding employer's contributions not later than 19th July in that year, the earnings-related contributions deductible during the second 3 income tax months shall be paid together with the corresponding employer's contributions not later than 19th October, and so on.

(2) The Collector shall if so requested give the employer a receipt for the total amount so paid, provided that no separate receipt need be given for earnings-related contributions only if a receipt is given for the total amount of earnings-related contributions and any tax paid at the same time.

(3)(a) If the employer has paid to the Collector on account of earnings-related contributions under this Regulation an amount which he was not liable so to pay, the amounts which he is liable so to pay subsequently in respect of other payments of emoluments made by him during the same year, shall be reduced by the amount so overpaid, so however that if there was a corresponding overdeduction from any payment of emoluments to an employee the provisions of this paragraph shall apply only in so far as the employer has accounted to the Collector therefor;

(b) this paragraph applies only where—

- (i) the overdeduction occurred by reason of an error made by the employer in good faith; or
- (ii) the overdeduction occurred as a result of the employment in respect of which the payment on account of earnings-related contributions is made being or, as the case may be, becoming contracted-out employment.

Employer failing to pay earnings-related contributions

27.—(1) If within 14 days of the end of any income tax month the employer has paid no amount of earnings-related contributions to the Collector under Regulation 26 for that income tax month and the Collector is unaware of the amount, if any, which the employer is liable so to pay, the Collector may give notice to the employer requiring him to render, within the time limited in the notice, a return showing the name and category letter of every employee to whom he made any payment of emoluments in the period from the preceding 6th April to the day (being the last day of an income tax month) specified by the notice, together with such particulars with regard to each such employee as the notice may require, being particulars of—

(b) the payments of emoluments made to him during that period; and

(c) the total amount of the earnings-related contributions which the employer was liable to pay in respect of those emoluments during that period, and any matter affecting the calculation of that amount.

(2) The Collector shall ascertain and certify the amount of earnings-related contributions which the employer is liable to pay to him in respect of the income tax month in question.

(3) The production of the certificate of the Collector under paragraph (2) of this Regulation shall, unless the contrary is proved, be sufficient evidence that the amount shown in the said certificate is the amount of earnings-related contributions which the employer is liable to pay to the Collector in respect of the income tax month in question; and any document purporting to be such a certificate as aforesaid shall be deemed to be such a certificate until the contrary is proved.

(4) Where a notice given by the Collector under paragraph (1) of this Regulation extends to two or more consecutive income tax months, the provisions of these Regulations shall have effect as if the said consecutive income tax months were one income tax month.

(5) A notice may be given by the Collector under paragraph (1) of this Regulation notwithstanding that an amount of earnings-related contributions has been paid to him by the employer under Regulation 26 for any income tax month, if the Collector is not satisfied that the amount so paid is the full amount which the employer is liable to pay to him for that month, and the provisions of this Regulation shall have effect accordingly.

Recovery of earnings-related contributions

28.—(1) The provisions of the Income Tax Acts and of any Regulations under section 204 (pay as you earn) of the Income and Corporation Taxes Act 1970(a)

(a) 1970 c. 10.

relating to the recovery of tax shall apply to the recovery of any amount of earnings-related contributions which an employer is liable to pay to the Collector for any income tax month under Regulation 26 as if the said amount had been tax which the employer was liable to pay to the Collector for that month under that section or under any such Regulations:

Provided that, in the application to any proceedings taken by virtue of this Regulation of any such provisions limiting the amount which is recoverable therein, there shall be disregarded any amount of tax which may by virtue of the following paragraph be included as part of the cause of action or matter of complaint in those proceedings.

(2) Proceedings may be brought for the recovery of the total amount of earnings-related contributions or of earnings-related contributions and of tax which, in either such case, the employer is liable to pay as aforesaid for any income tax month, without specifying the respective amounts of earnings-related contributions and of tax or distinguishing the amounts which he is liable to pay in respect of each employee and without specifying the employees in question, and for the purposes of proceedings under section 66 of the Taxes Management Act 1970(a) (including proceedings under that section as applied by the provisions of this Regulation), and for the purposes of summary proceedings (including in Scotland proceedings in the sheriff court or in the sheriff's small debt court), the said total amount shall, subject to the provisions of the proviso to paragraph (1) of this Regulation, be one cause of action or one matter of complaint; but nothing in this paragraph shall prevent the bringing of separate proceedings for the recovery of each of the several amounts of earnings-related contributions and of tax which the employer is liable to pay as aforesaid for any income tax month in respect of his several employees.

Return by employer at end of year

30.—(1) Not later than 14 days after the end of the year the employer shall render to the Collector in such form as the Commissioners of Inland Revenue may approve or prescribe, a return in respect of each employee containing such particulars as the said Commissioners may require for the identification of the employee and showing in respect of each and under each of the category letters the total amounts for the year shown under each of the heads (ii) and (iii) severally of Regulation 13(6)(b) of these Regulations and, severally, the total amount for the year shown under subparagraph (c) of the said Regulation 13(6).

(2) The said returns shall be accompanied by a statement and declaration in the form approved or prescribed by the Commissioners of Inland Revenue containing a list of all deduction cards issued by the Inspector to the employer or prepared by the employer in accordance with Regulations in respect of that year, together with a certificate showing—

- (a) the total amount of earnings-related contributions payable by him in respect of each employee during that year; and
- (b) the total amount of earnings-related contributions payable by him in respect of all his employees during that year; and
- (c) in relation to any contracted-out employment the number notified by the Occupational Pensions Board on the relevant contracting-out certificate as the employer's number.

(3) Where the employer is a body corporate, the declaration and the certificate referred to in paragraph (2) shall be signed by the secretary or by a director of the body corporate.

(a) 1970 c. 9.

(5) A return shall be made under this Regulation in respect of every employee in respect of whom a deduction card has been either issued to the employer by the Inspector or prepared by the employer in accordance with Regulations, or to whom the employer has at any time during the year made a payment of emoluments in respect of which earnings-related contributions were payable.

(6) If within 14 days of the end of any year an employer has failed to pay to the Collector the total amount of earnings-related contributions which he is liable so to pay, the Collector may prepare a certificate showing the amount of earnings-related contributions remaining unpaid for that year. To the amount shown in the said certificate the provisions of paragraphs (1) and (2) of Regulation 28 shall with any necessary modifications apply.

(6A) Notwithstanding the foregoing provisions of this Regulation, the return referred to in paragraph (1) of this Regulation may be made in such other form as the Secretary of State may, with the agreement of the Commissioners of Inland Revenue and the employer, approve, and in that case—

- (a) the foregoing provisions of this Regulation shall not apply;
- (b) the making of the return shall be subject to such conditions as the Secretary of State may direct as to the method of making it; and
- (c) the return shall be made to the Secretary of State and not to the Collector.

Inspection of employer's records

32.—(1) Every employer, whenever called upon to do so by an officer authorised by the Secretary of State or by the Commissioners of Inland Revenue, shall produce to that officer for inspection, at the employer's premises—

- (a) all wages sheets, deduction cards, and other documents and records whatsoever relating to the calculation of payment of the emoluments of his employees in respect of the years or income tax months specified by such officer or to the amount of the earnings-related contributions payable in respect of those emoluments; or
- (b) such of those wages sheets, deduction cards or other documents and records as may be specified by the authorised officer.

(2) The Collector by reference to the information obtained from an inspection of the documents and records produced under paragraph (1) may on the occasion of each inspection prepare a certificate showing—

- (a) the amount of earnings-related contributions which it appears from the documents and records so produced that the employer is liable to pay to the Collector for the years or income tax months covered by the inspection; and
- (b) any amount of such earnings-related contributions which has not been paid to him or, to the best of his knowledge and belief, to any other person to whom it might lawfully be paid.

(3) The production of a certificate such as is mentioned in paragraph (2) shall, unless the contrary is proved, be sufficient evidence that the employer is liable to pay to the Collector in respect of the years or, as the case may be, income tax months mentioned in the certificate the amount shown therein pursuant to paragraph (2)(b); and any document purporting to be such a certificate as aforesaid shall be deemed to be such a certificate until the contrary is proved.

(4) The provisions of paragraph (1) and (2) of Regulation 28 shall with any necessary modifications apply to the amount shown in such a certificate.

Death of employer

33. If an employer dies, anything which he would have been liable to do under these Regulations shall be done by his personal representatives, or, in the case of an employer who paid emoluments on behalf of another person, by the person succeeding him or, if no person succeeds him, the person on whose behalf he paid emoluments.

Succession to a business, etc.

34.—(1) This Regulation applies where there has been a change in the employer from whom an employee receives emoluments in respect of his employment in any trade, business, concern or undertaking, or in connection with any property, or from whom an employee receives any annuity other than a pension.

(2) Where this Regulation applies, in relation to any matter arising after the change, the employer after the change shall be liable to do anything which the employer before the change would have been liable to do under these Regulations if the change had not taken place:

Provided that the employer after the change shall not be liable for the payment of any earnings-related contributions which were deductible from emoluments paid to the employee before, unless they are also deductible from emoluments paid to the employee after, the change took place or of any corresponding employer's earnings-related contributions.

PART V

SPECIAL PROVISIONS APPLICABLE TO SEAMEN

Interpretation of Part V

35. In this Part of these Regulations, except where the context otherwise requires—

“employer” includes the master of a ship;

“seaman” means any person—

- (a) who has signed an agreement with the crew of a ship to which any determination of the National Maritime Board relating to remuneration applies, not being a member of the naval, military or air forces of the Crown or of any service administered by the Defence Council or a person in the employment of the British Railways Board; or
- (b) who, being employed on a ship, is a person to whom there has been issued a British Seaman's Card of which he has not ceased to be regarded as the holder;

and for the purpose of this definition—

- (i) where a seaman becomes employed under an agreement with the crew at a place outside the United Kingdom on terms which adopt any determination of the National Maritime Board relating to remuneration, that ship shall be deemed to be a ship to which that determination applies if the determination would have applied to the ship if the seaman had become so employed in the United Kingdom;
- (ii) where an arrangement has been made for the purposes of deduction of tax from the emoluments of persons resident in the United Kingdom who are employed or engaged in sea-going service in any foreign ship, those persons shall be deemed to be seamen.

Deduction of earnings-related contributions from seamen's emoluments

37.—(1A) Subject to the provisions of Regulation 43 of these Regulations, Parts II and III of these Regulations shall not apply in the case of a seaman and every employer,

on making any payment of a seaman's emoluments, may deduct earnings-related contributions therefrom in accordance with the provisions of this Part of these Regulations.

(2A) An employer shall not be entitled to recover any earnings-related contributions paid or to be paid by him on behalf of any seaman otherwise than by deduction in accordance with the provisions of this Part of these Regulations.

(3A) On the occasion of the payment of any seaman's emoluments there may be deducted therefrom the amount, if any, of the earnings-related contributions based thereon which the seaman is liable to pay under those provisions of the Act which relate to earnings-related contributions or under those provisions as modified by any regulations made under section 129 of the Act modifying the statutory provisions in relation to earnings-related contributions for a seaman.

(4A)(a) If the employer on making any payment of emoluments to a seaman does not deduct therefrom the full amount of earnings-related contributions which by virtue of these Regulations he is entitled to deduct, he may, subject to the provisions of the next succeeding paragraph of this Regulation recover the amount so underdeducted by deduction from any subsequent payment of emoluments to that employee during the same year;

(b) this paragraph applies only where—

- (i) the underdeduction occurred by reason of an error made by the employer in good faith; or
- (ii) the emoluments in respect of which the underdeduction occurred are deemed to be earnings by virtue of regulations made under section 18 of the Social Security (Miscellaneous Provisions) Act 1977; or
- (iii) the underdeduction occurred as a result of the cancellation, variation or surrender of the contracting-out certificate issued in respect of the employment in respect of which the payment of emoluments is made; or
- (iv) the underdeduction occurred as a result of the employment in respect of which the payment of emoluments is made not being treated or ceasing to be treated under article 3(1) of the Social Security Pensions Act 1975 (Commencement No. 11) Order 1977 as contracted-out employment.

(5A) The provisions of the last preceding paragraph shall be subject to the following conditions—

- (a) the amount which by virtue of the provisions of that paragraph may be deducted from any payment, shall—
 - (i) in a case to which only sub-paragraph (b)(iv) refers, be an amount in addition to but not in excess of one half of the amount deductible therefrom under the other provisions of these Regulations;
 - (ii) in any other case, be an amount in addition to but not in excess of the amount deductible therefrom under the other provisions of these Regulations; and
- (b) for the purposes of Part IV of these Regulations and of Regulations 39 and 41 an additional amount which may be deducted by virtue of the provisions of this paragraph shall be treated as an amount deductible under the provisions of these Regulations only in so far as the amount of the corresponding underdeduction has not been so treated.

Payment of earnings-related contributions to Collector

39. All amounts of earnings-related contributions which are payable in respect of any payment of emoluments under the provisions of these Regulations shall be paid

to the Collector within the time limited for the payment of income tax, if any, deductible from that payment of emoluments or, if income tax is not so deductible, the time which would be so limited if income tax were so deductible.

Return to be rendered by employer

40.—(1) Every employer who makes any payment of emoluments to a seaman shall, within the time specified in Regulation 39 for the payment of the earnings-related contributions, if any, payable in respect of those emoluments, render a return to the Collector in such form as may be authorised by the Commissioners of Inland Revenue showing as regards every payment of emoluments which he makes to the seaman—

- (a) the seaman's name;
- (b) the seaman's rank or rating and discharge book number;
- (c) the seaman's national insurance number;
- (d) the appropriate category letter of the seaman as indicated by the Secretary of State; and
- (e) subject to the provisions of Regulation 13(6A) and (6B) the amounts specified in Regulation 13(6)(b) and (c).

(2) In relation to a contracted-out employment every employer shall in his said return also show the number notified by the Occupational Pensions Board on the relevant contracting-out certificate as the employer's number.

Application of Part IV

41.—(1) The provisions of Part IV of these Regulations shall apply in relation to seamen subject to any necessary modifications and in particular to the modifications set out in the following paragraphs of this Regulation.

(2) Paragraph (1) of Regulation 26 shall apply as if—

- (a) for the reference to payment of earnings-related contributions within 14 days of the end of every income tax month there were substituted a reference to payment of earnings-related contributions within the time limited in Regulation 39 of these Regulations; and
- (b) the words "other than amounts deductible by virtue of Regulation 13(1A) which he did not deduct" were omitted; and
- (c) Regulation 13(1A) were omitted.

(3) Regulation 27 shall not apply, but the following provisions shall have effect where the employer fails to pay to the Collector within the time limited in Regulation 39 any amount of earnings-related contributions which he is liable under these Regulations to pay to the Collector that is to say—

- (a) the production of the return made by the employer under Regulation 40 shall be sufficient evidence that the total amount of the earnings-related contributions shown in that return as payable by the employer is the amount which he is liable to pay to the Collector;
- (b) if the total amount of the earnings-related contributions shown in the return as payable differs from the amount which the employer is liable to pay, a certificate of the Collector as to the amount which is payable shall be sufficient evidence that that amount, and not the amount shown in the said return, is the amount which the employer is liable to pay to the Collector; and any document purporting to be such a certificate as aforesaid shall be deemed to be such a certificate until the contrary is proved.

(4) Regulation 30 shall not apply in the case of seamen.

Seamen to whom Part V shall not apply

43. Notwithstanding the preceding Regulations in this Part of these Regulations where, under Regulation 43 of the Income Tax (Employments) Regulations 1973(a) the Commissioners of Inland Revenue have approved arrangements agreed with an employer in respect of all or some of his employees for the purpose of applying with or without modification the provisions of Parts II, III and IV of those Regulations, and in consequence the provisions of Part V of those Regulations do not apply in respect of those employees, Part V of these Regulations shall not apply in respect of them either and the provisions of Parts II, III and IV of these Regulations shall, subject to any modifications which may be specified in the said arrangements, apply instead.

PART VII

ASSESSMENT AND DIRECT COLLECTION

Provisions for direct payment

50.—(1) In cases of employed earner's employment, where the employer does not fulfil the conditions prescribed in regulation 119(1)(b) of the Main Regulations as to residence or presence in Great Britain or is a person who, by reason of any international treaty to which the United Kingdom is a party or of any international convention binding on the United Kingdom, is exempt from the provisions of the Act or is a person against whom for like reason the provisions of the Act are not enforceable, the provisions of Regulation 51 of these Regulations shall, unless the employer, being a person entitled to pay the primary contributions due in respect of the earnings from the said employment, is willing to pay those contributions, apply to the employee.

51.—(1) In any case falling within paragraph (1) of Regulation 50, the Inspector may issue a deduction card to the employee (and, where no such card has been issued, the employee shall obtain the issue of one from the Inspector), and the following provisions of this Regulation shall apply.

(2) The employee to whom a deduction card has been issued under the last preceding paragraph shall record on that card his name, national insurance number and category letter from time to time being as indicated by the Secretary of State, and whenever, in respect of an employment such as is specified in the last preceding Regulation, the employee receives any emoluments during the year for which the deduction card was issued, he shall also record on that card the amount of the emoluments, the date on which he received them, and the earnings-related contributions payable by him in respect of those emoluments.

(3) Not later than the time for the payment of income tax, if any, the employee shall pay to the Collector the amount of the earnings-related contributions payable by the employee in respect of the emoluments which have been received by him and for which the income tax was or would have been payable.

(4) If by the time specified in the last preceding paragraph the employee has paid no amount of earnings-related contributions to the Collector in respect of the last-mentioned emoluments, and the Collector is unaware of the amount, if any, which the employee is liable so to pay, or if an amount has been paid but the Collector is not satisfied that it is the full amount which the employee is liable to pay to him in respect of those emoluments, the Collector may—

(a) give notice to the employee requiring him to render, within the time limited in the notice, a return in the prescribed form containing particulars of all emoluments received by him during the period specified in the notice and

(a) S.I. 1973/334.

such other particulars affecting the calculations of the earnings-related contributions payable in respect of the emoluments in question as may be specified in the notice; and in such a case the provisions of Regulation 27 regarding the ascertainment and certification by the Collector of earnings-related contributions payable by an employer, and the provisions of Regulation 28 regarding the recovery of any such earnings-related contributions, shall apply with the necessary modifications for the purposes of ascertaining, certifying and recovering the earnings-related contributions payable by the employee.

(5) If the employee ceases to receive emoluments such as are specified in paragraph (2) of this Regulation he shall forthwith render a return to the Collector on the deduction card, showing the last date on which he received any such emoluments, the total of those emoluments and earnings-related contributions payable from the beginning of the year to that date.

(6) Not later than 14 days after the end of the year the employee shall (unless he has previously sent the deduction card to the Collector with the particulars required by paragraph (5) of this Regulation) render a return to the Collector on the deduction card, showing the total of the aforesaid emoluments and earnings-related contributions payable during the year, together with the appropriate category letter; and the provisions of paragraph (6) of Regulation 30 regarding the certification and recovery of earnings-related contributions remaining unpaid by an employer for any year shall apply in the case of any earnings-related contributions remaining unpaid by the employee.

SCHEDULE 2

Regulation 57

PART I

STAMP DUTIES MANAGEMENT ACT 1891

Section of Act	Subject-matter	Adapted provisions
3	Power to grant licences to deal in stamps.	<p>(1) The Secretary of State may in his discretion grant a licence to any person to deal in stamps in such places and subject to such conditions as the Secretary of State may approve.</p> <p style="text-align: center;">* * *</p> <p>(4) One licence only shall be required for any number of persons in partnership, and the licence may at any time be revoked by the Secretary of State.</p>
4	Penalty for unauthorised dealing in stamps, etc.	<p>(1) If any person who is not duly appointed to sell and distribute stamps deals in any manner in stamps, without being licensed so to do . . . he shall for every such offence incur a fine of £20.</p> <p>(2) If any person who is not duly appointed to sell and distribute stamps, or duly licensed to deal in stamps, has, or puts upon his premises either in the inside or on the outside thereof, or upon any board or any material whatever exposed to public view, and whether the same be affixed to his premises or not, any letters importing or intending to import</p>

PART I (contd.)

Section of Act	Subject-matter	Adapted provisions
4	Penalty for unauthorised dealing in stamps, etc.— <i>contd.</i>	that he deals in stamps, or is licensed so to do, he shall incur a fine of £10.
5	Provisions as to determination of licence.	<p>(1) If the licence of any person to deal in stamps expires or is revoked, or if any person licensed to deal in stamps dies or becomes bankrupt, and any such person at the expiration or revocation of his licence, or at the time of his death or bankruptcy, has in his possession any stamps, such person, or his executor or administrator, or the receiver or trustee or official assignee under his bankruptcy, may, within 6 months after the expiration or revocation of the licence, or after the death or bankruptcy, as the case may be, bring or send the stamps to the Secretary of State.</p> <p>(2) The Secretary of State may in any such case pay to the person bringing or sending stamps the amount of the duty thereon if proof to his satisfaction is furnished that the same were actually in the possession of the person whose licence has expired or been revoked, or so dying or becoming bankrupt, for the purpose of sale, at the time of the expiration or revocation of the licence, or of his death or bankruptcy, and that the stamps were purchased or procured by that person from the Secretary of State, or from some person duly appointed to sell and distribute stamps, or duly licensed to deal in stamps.</p>
6	Penalty for hawking stamps.	<p>(1) If any person, whether licensed to deal in stamps or not, hawks or carries about for sale or exchange any stamps, he shall, in addition to any other fine or penalty to which he may be liable, incur a fine of £20.</p> <p>(2) In default of payment of the fine, on summary conviction, the offender shall be imprisoned for any term not exceeding 2 months.</p> <p>(3) All stamps which are found in the possession of the offender shall be forfeited, and shall be delivered to the Secretary of State to be disposed of as he thinks fit.</p> <p>(4) Any person may arrest a person found committing an offence against this section, and take him before a justice having jurisdiction where the offence is committed, who shall hear and determine the matter.</p>

PART I (contd.)

Section of Act	Subject-matter	Adapted provisions
9	Procedure for obtaining allowance.	<p>Subject to such regulations as the Secretary of State may think proper to make, and to the production of such evidence by statutory declaration or otherwise as the Secretary of State may require, allowance is to be made by the Secretary of State for stamps spoiled in the case hereinafter mentioned (that is to say):—</p> <p style="text-align: center;">* * *</p> <p>(2) Any stamp which has been inadvertently and undesignedly spoiled or rendered unfit for use and has not in the opinion of the Secretary of State been affixed to any material;</p> <p style="text-align: center;">* * *</p> <p>Provided as follows:—</p> <p>(a) That the application for relief is made within 2 years after the stamp has been spoiled or become useless.</p> <p style="text-align: center;">* * *</p>
11	Allowance, how to be made.	<p>In any case in which allowance is made for spoiled or misused stamps the Secretary of State may give in lieu thereof other stamps of the same denomination and value, or if required, and he thinks proper, stamps of any other denomination to the same amount in value, or in his discretion, the same value in money.</p>
12	Stamps not wanted may be re-purchased.	<p>When any person is possessed of a stamp which has not been spoilt or rendered unfit or useless for the purpose intended, but for which he has no immediate use, the Secretary of State may, if he thinks fit, repay to him the value of the stamp in money, upon his delivering up the stamp to be cancelled, and proving to the satisfaction of the Secretary of State that it was purchased by him . . . from some persons duly appointed to sell and distribute stamps or duly licensed to deal in stamps, within the period of 2 years next preceding the application and with a bona-fide intention to use it.</p>
13	Certain offences in relation to stamps.	<p>Every person who does, or causes or procures to be done, or knowingly aids, abets, or assists in doing any of the acts following, that is to say:—</p> <p>(1) <i>Forges a die or stamp;</i></p> <p>(2) <i>Prints or makes an impression upon any material with a forged die;</i></p>

PART I (contd.)

Section of Act	Subject-matter	Adapted provisions
13	Certain offences in relation to stamps.— <i>contd.</i>	<p>(3) Fraudulently prints or makes an impression upon any material from a genuine die;</p> <p>(4) Fraudulently cuts, tears, or in any way removes from any material any stamp, with intent that any use should be made of such stamp or of any part thereof;</p> <p>(5) Fraudulently mutilates any stamp, with intent that any use should be made of any part of such stamp;</p> <p>(6) Fraudulently fixes or places upon any material or upon any stamp, any stamp or part of a stamp which, whether fraudulently or not, has been cut, torn or in any way removed from any other material, or out of or from any other stamp;</p> <p>(7) Fraudulently erases or otherwise either really or apparently removes from any stamped material any name, sum, date or other matter or thing whatsoever thereon written, with intent that any use should be made of the stamp upon such material;</p> <p>(8) Knowingly sells or exposes for sale or utters or uses <i>any forged stamp</i> or any stamp which has been fraudulently printed or impressed from a genuine die;</p> <p>(9) Knowingly, and without lawful excuse (the proof whereof shall lie on the person accused) has in his possession <i>any forged die or stamp</i> or any stamp which has been fraudulently printed or impressed from a genuine die, or any stamp or part of a stamp which has been fraudulently cut, torn, or otherwise removed from any material, or any stamp which has been fraudulently mutilated or any stamped material out of which any name, sum, date or other matter or thing has been fraudulently erased or otherwise either really or apparently removed,</p> <p>shall be guilty of an offence and shall on conviction be liable to be imprisoned for any term not exceeding 14 years.</p>
16	Proceedings for detection of forged dies, etc.	On information given before a justice upon oath that there is just cause to suspect any person of being guilty of any

PART I (contd.)

Section of Act	Subject-matter	Adapted provisions
16	Proceedings for detection of forged dies, etc.— <i>contd.</i>	of the offences aforesaid, such justice may, by warrant under his hand, cause every house, room, shop, building or place belonging to or occupied by the suspected person, or where he is suspected of being or having been in any way engaged or concerned in the commission of any such offence, or of secreting any machinery, implements or utensils applicable to the commission of any such offence, to be searched, and if upon such search any of the said several matters and things are found, the same may be seized and carried away, and shall afterwards be delivered over to the Secretary of State.
17	Proceedings for detection of stamps stolen or obtained fraudulently.	<p>(1) Any justice having jurisdiction in the place where any stamps are known or supposed to be concealed or deposited may, upon reasonable suspicion that the same have been stolen or fraudulently obtained, issue his warrant for the seizure thereof, and for apprehending and bringing before himself or any other justice within the same jurisdiction the person in whose possession or custody the stamps may be found, to be dealt with according to law.</p> <p>(2) If the person does not satisfactorily account for the possession of the stamps, or it does not appear that the same were purchased by him . . . from some person duly appointed to sell and distribute stamps or duly licensed to deal in stamps, the stamps shall be forfeited and shall be delivered over to the Secretary of State.</p> <p>(3) Provided that if at any time within 6 months after the delivery any person makes out to the satisfaction of the Secretary of State that any stamps so forfeited were stolen or otherwise fraudulently obtained from him, and that the same were purchased by him . . . from some person duly appointed to sell or distribute stamps, or duly licensed to deal in stamps, such stamps may be delivered up to him.</p>
18	Licensed person in possession of forged stamps.	(1) If any forged stamps are found in the possession of any person appointed to sell and distribute stamps, or being or having been licensed to deal in stamps, that person shall be deemed and taken,

PART I (contd.)

Section of Act	Subject-matter	Adapted provisions
18	Licensed person in possession of forged stamps.— <i>contd.</i>	<p>unless the contrary is satisfactorily proved, to have had the same in his possession knowing them to be forged and with intent to sell, use or utter them, and shall be liable to the punishment imposed by law upon a person selling, using, uttering or having in possession forged stamps knowing the same to be forged.</p> <p>(2) If the Secretary of State has cause to suspect any such person of having in his possession any forged stamps, he may by warrant under his hand authorise any person to enter between the hours of 9 in the morning and 7 in the evening into any house, room, shop or building of or belonging to the suspected person, and if on demand of admittance, and notice of the warrant, the door of the house, room, shop or building, or any inner door thereof, is not opened, the authorised person may break open the same and search for and seize any stamps that may be found therein or in the custody or possession of the suspected person.</p> <p>(3) All officers of the peace are hereby required, upon request of any person so authorised, to aid and assist in the execution of the warrant.</p> <p>(4) Any person who—</p> <p>(a) refuses to permit any such search or seizure to be made as aforesaid; or</p> <p>(b) assaults, opposes, molests or obstructs any person so authorised in the due execution of the powers conferred by this section or any person acting in his aid or assistance;</p> <p>and any officer of the peace who, upon any such request as aforesaid, refuses or neglects to aid or assist any person so authorised in the due execution of his powers shall incur a fine of £50.</p>
19	Mode of proceedings where stamps are seized.	Where stamps are seized under a warrant, the person authorised by the warrant shall, if required, give to the person in whose custody or possession the stamps are found an acknowledgement of the number, particulars and amount of the stamps, and permit the stamps to be marked before the removal thereof.

PART I (contd.)

Section of Act	Subject-matter	Adapted provisions
20	As to defacement of adhesive stamps.	Every person who by any writing in any manner defaces any stamp before it is used shall incur a penalty of £5. Provided that any person may, with the express sanction of the Secretary of State, write upon or otherwise appropriate a stamp before it is used for the purpose of identification thereof.
24	Declarations, how to be made.	Any statutory declaration, affidavit or oath to be made in pursuance of or for the purpose of this or any other Act for the time being in force relating to stamps may be made before the Secretary of State or any officer or person authorised by him in that behalf, or before any commissioner for oaths or any justice or any notary public in any part of Great Britain, or at any place out of Great Britain before any person duly authorised to administer oaths there.
25	Mode of granting licences.	Any licence or certificate to be granted by the Secretary of State under this or any other Act for the time being in force relating to stamps may be granted by such officer or person as the Secretary of State may authorise in that behalf.
26	Recovery of fines.	All fines imposed by this Act or by any Act for the time being in force relating to stamps may be proceeded for and recovered in the same manner, and, in the case of summary proceedings, with the like power of appeal as any fine or penalty under any Act relating to the Excise.
27	Definitions.	<p>In the provisions of this Act, unless the context otherwise requires:—</p> <p style="text-align: center;">* * *</p> <p>The expression “duty” includes any contribution payable under the Social Security Act 1975 by means of stamps.</p> <p>The expression “material” includes every sort of material upon which words or figures can be expressed.</p> <p style="text-align: center;">* * *</p> <p>The expression “die” includes any plate, type, tool or implement whatever used under the direction of the Secretary of State for expressing, or denoting any duty, or rate of duty, or the fact that any duty, or rate of duty . . . has been paid . . . or for denoting any fee, and also any part of any such plate, type, tool or implement.</p>

PART I (*contd.*)

Section of Act	Subject-matter	Adapted provisions
27	Definitions.— <i>contd.</i>	<p>The expressions “forge” and “forged” include counterfeit and counterfeited. The expression “stamp” means in relation to stamps prepared and issued for the purposes of the Social Security Act 1975 an adhesive stamp. The expression “stamped” is applicable as well to instruments and material impressed with stamps by means of a die as to instruments and material having adhesive stamps affixed thereto. The expression “justice” means justice of the peace.</p>

PART II

POST OFFICE ACT 1953

Section of Act	Subject-matter	Adapted provisions
63	Prohibition of fictitious stamps.	<p>(1) A person shall not:— (a) make, knowingly utter, deal in or sell any fictitious stamp; (b) have in his possession, unless he shows a lawful excuse, any fictitious stamp; or (c) make or, unless he shows a lawful excuse, have in his possession any die, plate, instrument or materials for making any fictitious stamp.</p> <p>(2) A person shall not knowingly use for the purposes of payment of contributions under the Social Security Act 1975, any fictitious stamp.</p> <p>(3) If any person acts in contravention of the foregoing provisions of this section, he shall be liable on summary conviction to a fine not exceeding £20.</p> <p>(4) Any stamp, die, plate, instrument or materials found in the possession of any person in contravention of subsection (1) of this section may be seized and shall be forfeited.</p> <p>(5) The importation into the United Kingdom— (a) of any facsimile, imitation or representation, whether on paper or otherwise, of any stamp; or</p>

PART II (*contd.*)

Section of Act	Subject-matter	Adapted provisions
63	Prohibition of fictitious stamps.— <i>contd.</i>	<p>(b) of any die, plate, instrument or materials for making such a facsimile, imitation or representation, is hereby prohibited.</p> <p>(6) In this section:—</p> <p>(a) the expression “fictitious stamp” means any facsimile, imitation or representation, whether on paper or otherwise, of any stamp; and</p> <p>(b) the expression “stamp” means in relation to stamps prepared and issued for the purposes of the Social Security Act 1975, an adhesive stamp.</p> <p style="text-align: center;">* * *</p>

SCHEDULE 3

Regulation 113

PART I

Prescribed establishments and organisations for purposes of section 128(3) of the Act

1. Any of the regular naval, military or air forces of the Crown.
2. Royal Naval Reserve.
3. Royal Marines Reserve.
4. Royal Fleet Reserve.
5. Royal Naval Special Reserve (Special List).
6. Women's Royal Naval Reserve and Women's Royal Naval Supplementary Reserve.
7. Queen Alexandra's Royal Naval Nursing Service Reserve.
8. Voluntary Aid Detachment (Naval Reserve).
9. Regular Army Reserve of Officers.
10. Army Reserves (including Regular Reserves, Army General Reserve, Long Term Reserve and Army Pensioners).
11. Territorial and Army Volunteer Reserve.
12. Royal Air Force Reserve (including Royal Air Force Reserve of Officers, Royal Air Force Volunteer Reserve, Women's Royal Air Force Reserve of Officers and Women's Royal Air Force Volunteer Reserve).
13. Royal Auxiliary Air Force (including Women's Royal Auxiliary Air Force).
14. Princess Mary's Royal Air Force Nursing Service Reserve.
15. The Ulster Defence Regiment.

PART II

Establishments and organisations of which Her Majesty's Forces shall not consist

By virtue of regulation 113 of these regulations, Her Majesty's forces shall not be taken to consist of any of the establishments or organisations specified in Part I of this

Schedule by virtue only of the employment in such establishment or organisation of the following persons—

- (a) any person who is serving as a member of any naval force of Her Majesty's forces and who (not having been an insured person under the former principal Act or, as the case may be, the National Insurance Act (Northern Ireland) 1966(a) and not being a contributor under the Act) locally entered that force at an overseas base;
- (b) any person who is serving as a member of any military force of Her Majesty's forces and who entered that force, or was recruited for that force outside the United Kingdom, and the depot of whose unit is situated outside the United Kingdom;
- (c) any person who is serving as a member of any air force of Her Majesty's forces and who entered that force, or was recruited for that force, outside the United Kingdom, and is liable under the terms of his engagement to serve only in a specified part of the world outside the United Kingdom.

Regulation 130(2)

SCHEDULE 4

SAVINGS
PART I

<i>Enactments</i>	<i>Description</i>
The National Insurance (Industrial Injuries) Act 1946(b) Section 71(2) Section 90(j)	Priority of contributions in bankruptcy. Application of section 71(2) to Scotland.
The National Insurance Act 1946(c) Section 55(2) Section 79(j)	Priority of contributions in bankruptcy. Application of section 55(2) to Scotland.
The National Insurance Act 1965(d) Section 4(7)(c)	Graduated contributions by employed persons and employers.
Section 8(1)	Restriction on entitlement to pay contributions.
Section 10	Exception from liability for, and crediting of, contributions.
Section 14(1)	General provisions as to payment and collection of contributions, etc.
Section 15(1), (2)(b) and (3)	Power to combine payment and collection of contributions with that of income tax.
Section 56(3)(e)	Non-participating employments.
Section 59(8)	Further provisions as to payments in lieu of contributions.
Section 90(2) to (8)	Inspectors.
Section 94(1) and (2)	General provisions as to prosecutions.
Section 99(2) and section 99(3)(c)(f)	Members of forces.

- (a) 1966 c.6(N.I.) (b) 1946 c.62. (c) 1946 c.67. (d) 1965 c.51.
 (e) This section was amended by the National Insurance Act 1966 (c.6), Schedule 1, paragraph 6. (f) Section 99(3)(c) was amended by the National Insurance Act 1966 (c.6), Schedule 1, paragraph 9(a).

PART I (*contd.*)

<i>Enactments</i>	<i>Description</i>
Section 100 Section 115 Section 117(1) and (2) Schedule 11, paragraph 17, and paragraph 18 (1) and (2) and paragraph 19(d) and (e)	Mariners and airmen. Transitory provisions. General savings, etc. Pre-1948 contributors and beneficiaries. Insured persons over school leaving age on 5th July 1948. Miscellaneous special savings.
The National Insurance (Industrial Injuries) Act 1965(a) Section 3 In section 64, in subsection (3), the words from "contributions" to "or whether"; and subsection (5) Schedule 2, Part III	Payment of contributions. Inspectors. Return of contributions paid erroneously.
The National Health Service Contribu- tions Act 1965(b) Section 2(5)	No benefit to be deducted from any repay- ment of the national health service contributions paid in error.
The Redundancy Payments Act 1965(c) Section 28(6)	No benefit to be deducted from any repay- ment of the redundancy fund contribu- tions paid in error.

PART II

Column 1 <i>Powers and Applying Provisions</i>	Column 2 <i>Regulations</i>	Column 3 <i>Description</i>
The National Insurance Act 1965(d) Sections 115, 117(1) and Schedule 11, para- graph 17.	The National Insurance (Pensions, Existing Con- tributors) (Transitional) Regulations 1948(e). Regulation 8	Contributions under the Con- tributory Pensions Acts to be taken into account for the purposes of the National Insurance Act 1965.

(a) 1965 c. 52.

(b) 1965 c. 54.

(c) 1965 c. 62.

(d) 1965 c. 51.
1960/1226, 1966/610.

(e) S.I. 1948/612; relevant amending instruments are S.I. 1949/1412,

PART II (contd.)

Column 1 <i>Powers and Applying Provisions</i>	Column 2 <i>Regulations</i>	Column 3 <i>Description</i>
Sections 115, 117(1) and Schedule 11, paragraphs 18(1) and (2) and 19(d) and (e).	<p>The National Insurance (New Entrants Transitional) Regulations 1949 (a).</p> <p>Regulation 4(1)(c).</p> <p>Regulation 4A(1) and (5).</p> <p>Regulation 4B(1).</p>	<p>Rights of new entrants who were immediately before 5.7.48 over 55 (men) and 50 (women) and under pensionable age to elect not to be qualified for a retirement pension and to receive a refund of portion of contributions.</p> <p>Refund of contributions for new entrants who entered insurance under the former principal Act less than 156 weeks before attaining pensionable age.</p> <p>Refund of contributions for new entrants who enter insurance too late to be able to satisfy the condition as to yearly average of contributions for widow's benefit or retirement pension.</p>
Section 56(3)(b) and section 117(1).	<p>The National Insurance (Graduated Contributions and Non-participating Employments—Miscellaneous Provisions) Regulations 1960 (c).</p> <p>Regulation 4.</p>	<p>Calculation of excess payment of graduated contributions.</p>
Section 99(2) and (3)(c)(d)	The National Insurance (Members of the Forces) Regulations 1968(e).	

(a) S.I. 1949/352; relevant amending instruments are S.I. 1952/2144, 1955/493, 1957/2077, 1958/1239, 2124, 1960/1210, 1961/557, 1963/502.

(b) This section was amended by the National Insurance Act 1966 (c.6), Schedule 1, paragraph 6.

(c) S.I. 1960/1210, amended by S.I. 1966/1048.

(d) Section 99(3)(c) was amended by the National Insurance Act 1966 (c.6), Schedule 1, paragraph 9 (a).

(e) S.I. 1968/827; relevant amending instrument is S.I. 1969/1508.

PART II (*contd.*)

Column 1 <i>Powers and Applying Provisions</i>	Column 2 <i>Regulations</i>	Column 3 <i>Description</i>
Sections 8(1), 10 and 14(1)(b), (c), (d) and (e).	Regulation 4(2).	Contributions deemed to have been paid on due date.
	Regulation 5(3) in so far as it relates to payments in lieu of contributions.	Application without modifications for the purposes of section 58 of the former principal Act of column (1) of Schedule 4 to the National Insurance (Members of the Forces) Regulations 1968.
	Regulation 11.	Financial provisions.
	Regulation 12.	Application of the former principal Act and Regulations.
	Regulation 14 in so far as it relates to those provisions in Part I which continue in force after the appointed day.	Application of section 99 of the former principal Act and of Part I of these regulations for the purposes of the Northern Ireland Act.
	Regulation 15 in so far as it relates to liability for a payment in lieu of contributions and collection of flat-rate and graduated contributions and collection of flat-rate and graduated contributions after the appointed day.	Contributions.
	Regulation 16.	Modifications of Act and regulations in application to Northern Ireland.
	Regulation 17.	Provisions relating to persons to be treated as belonging to Northern Ireland.
	Schedule 7, the entries relating to section 99(2) and Regulation 12.	Modifications applying to Northern Ireland.
	The National Insurance (Contributions) Regulations 1969(a).	
Regulation 2.	Unemployment—exception and credits.	

(a) S.I. 1969/1696; relevant amending instrument is S.I. 1971/1421.

PART II (contd.)

Column 1 <i>Powers and Applying Provisions</i>	Column 2 <i>Regulations</i>	Column 3 <i>Description</i>
	Regulation 3	Incapacity for work—exception and credits.
	Regulation 4	Payment of contributions by persons excepted from liability under regulations 2 and 3 of the National Insurance (Contributions) Regulations 1969.
	Regulation 5	Provisions determining days of unemployment or incapacity for work.
	Regulation 6	Persons over pensionable age.
	Regulation 9(5)(a), (b) and (e) and (6)	Issue of certificates of exception to women and refund of contributions paid by women excepted from liability.
	Regulation 10(5)	Credits for weeks of education, apprenticeship and training.
	Regulation 11	Insured women who have been confined.
	Regulation 13	Applications for, and duration and cancellation of, certificates of exception.
	Regulation 15(3)	Credits during period for which certificate of exception is in force.
	Regulation 19	Disposal of contributions improperly paid.
	Regulation 20	Return of contributions paid in error.
	Regulation 23	Treatment for the purpose of late paid or unpaid contributions where there was no consent, connivance or negligence by the insured person.
	Regulation 24	Treatment for the purpose of any benefit of contributions paid late through ignorance or error.

PART II (contd.)

Column 1 <i>Powers and Applying Provisions</i>	Column 2 <i>Regulations</i>	Column 3 <i>Description</i>
Sections 14(1), 15(1) and (2)(b) and 59(8)	Regulation 25	Treatment for the purpose of unemployment, sickness or invalidity benefit of late paid contributions.
	Regulation 26	Treatment for the purpose of maternity benefit of late paid contributions.
	Regulation 27	Treatment for the purpose of widow's benefit, child's special allowance or retirement pension of late paid contributions.
	Regulation 28	Treatment for the purpose of increase of rate of retirement pension of late paid contributions.
	Regulation 29	Treatment for the purpose of death grant of late paid contributions.
	Regulation 30	Treatment for the purpose of any benefit of late paid graduated contributions and payments in lieu of contributions.
	Regulation 31	Treatment for the purpose of any benefit of contributions which persons are entitled but not liable to pay.
	Regulation 32	Contributions not paid within prescribed periods.
	Regulation 33	Payments after death.
	The National Insurance (Collection of Graduated Contributions) Regulations 1970(a)	Regulation 2 in so far as it relates to those matters specified hereafter in Schedules 1 and 2

(a) 1970/1770, amended by S.I. 1971/2050, 1973/548.

PART II (contd.)

Column 1 <i>Powers and Applying Provisions</i>	Column 2 <i>Regulations</i>	Column 3 <i>Description</i>
	Regulation 4	Payments in lieu of contributions.
	Schedule 1, Regulation 2(1)	Interpretation.
	Schedule 1, Regulation 3(1) and (2)	Intermediate employers.
	Schedule 1, Regulation 3A	Employers' graduated contributions.
	Schedule 1, Regulation 4A	Inspectors and Collectors.
	Schedule 1, Regulation 5	Service by post.
	Schedule 1, Regulation 26	Payment of graduated contributions by employer.
	Schedule 1, Regulation 27	Employer failing to pay graduated contributions.
	Schedule 1, Regulation 28	Recovery of graduated contributions.
	Schedule 1, Regulation 29	Return by employer at end of year.
	Schedule 1, Regulation 32	Inspection of employer's records.
	Schedule 1, Regulation 33	Death of employer.
	Schedule 1, Regulation 34	Succession to a business, etc.
	Schedule 2, Regulations 2(3) and 2A	Interpretation.
	Schedule 2, Regulations 4(1A) to (4A)	Deduction of graduated contributions from seamen's emoluments.
	Schedule 2, Regulation 6	Payment of graduated contributions to Collector.
	Schedule 2, Regulation 7	Return to be rendered by employer.
	Schedule 2, Regulation 8	Application of Part IV of Schedule 1.
	Schedule 2, Regulation 11	Seamen to whom Schedule 2 does not apply.

PART II (*contd.*)

Column 1 <i>Powers and Applying Provisions</i>	Column 2 <i>Regulations</i>	Column 3 <i>Description</i>
Section 4(7)(c) Section 3 and Schedule 2, Part III to the National Insurance (Industrial Injuries) Act 1965(b)	The National Insurance (Assessment of Graduated Contributions) Regulations 1973(a) Regulation 11 The National Insurance (Industrial Injuries) (Refund of Contributions) Regulations 1948(c) The whole of the Regulations.	Abnormal pay practices.

SCHEDULE 5

Regulation 136(1)

REVOCATIONS

Column 1 <i>Regulations revoked</i>	Column 2 <i>References</i>	Column 3 <i>Extent of revocation</i>
The Social Security (Contributions) Regulations 1975	S.I. 1975/492.	The whole regulations.
The Social Security (Contributions) (Consequential Amendments) Regulations 1975	S.I. 1975/1855.	The whole regulations.
The Social Security (Contributions, Re-rating) Consequential Amendment Regulations 1976	S.I. 1976/1.	The whole regulations.
The Social Security (Contributions) Amendment Regulations 1976	S.I. 1976/88.	The whole regulations.
The Social Security (Contributions) (Amendment No. 2) Regulations 1976	S.I. 1976/507.	The whole regulations.
The Social Security (Contributions, Re-rating) Consequential Amendment Regulations 1977	S.I. 1977/114.	The whole regulations.

(a) S.I. 1973/1013 to which there are amendments not relevant to these regulations.

(b) 1965 c. 52. (c) S.I. 1948/1424.

REVOCATIONS (*contd.*)

Column 1 <i>Regulations revoked</i>	Column 2 <i>References</i>	Column 3 <i>Extent of revocation</i>
The Social Security (Contributions) (Consequential Amendments) Amendment Regulations 1977	S.I. 1977/543.	The whole regulations.
The Social Security (Contributions) (Married Women and Widows) Amendment Regulations 1977	S.I. 1977/544.	The whole regulations.
The Social Security (Contributions) Amendment Regulations 1977	S.I. 1977/638.	The whole regulations.
The Social Security (Contributions) Miscellaneous Amendments Regulations 1977	S.I. 1977/1755.	The whole regulations.
The Social Security (Contributions) (Consequential Amendments) Amendment (No. 2) Regulations 1977	S.I. 1977/1953.	The whole regulations.
The Social Security (Categorisation of Earners and Contributions) Amendment Regulations 1977	S.I. 1977/1987.	Regulations 1(2) (b) and 8.
The Social Security (Contributions, Re-rating) Consequential Amendment Regulations 1978	S.I. 1978/70.	The whole regulations.
The Social Security (Contributions) Amendment Regulations 1978	S.I. 1978/423.	The whole regulations.
The Social Security (Contributions) Consequential Amendment Regulations 1978	S.I. 1978/507.	The whole regulations.
The Social Security (Contributions) Amendment (No. 2) Regulations 1978	S.I. 1978/821.	The whole regulations.
The Social Security (Contributions) (Earnings Limits) Regulations 1978	S.I. 1978/1669.	The whole regulations.
The Social Security (Contributions) Amendment (No. 3) Regulations 1978	S.I. 1978/1703.	The whole regulations.
The Social Security (Contributions) (Mariners) Amendment Regulations 1978	S.I. 1978/1877.	The whole regulations.
The Social Security (Contributions, Re-rating) Consequential Amendment Regulations 1979	S.I. 1979/9.	The whole regulations.
The Social Security (Contributions) Amendment Regulations 1979	S.I. 1979/358.	The whole regulations.

EXPLANATORY NOTE

(This Note is not part of the Regulations.)

These Regulations consolidate the regulations hitherto in force relating to contributions under the Social Security Acts 1975. They make provision for the assessment and collection of contributions, for exception from, and, in the case of Class 1 and Class 4 contributions, deferment of, liability for contributions and for the appropriation, reallocation and refund of contributions. They also apply with necessary adaptations the provisions of the Stamp Duties Management Act 1891 and section 63 of the Post Office Act 1953 to stamps prepared and issued for the purpose of the Social Security Act 1975. They also make provision for the treatment of late paid and unpaid contributions.

Further, the Regulations (in Part VIII) make, in relation to contributions, provision for special classes of earners, namely, airmen (Case A), persons employed in connection with the continental shelf (Case B), mariners (Case C), married women and widows (Case D), members of the forces (Case E) and persons outside Great Britain (Case F). In that Case also provision is made prescribing the conditions of residence or presence in Great Britain for liability or entitlement to pay contributions.

SI 1979/591
ISBN 0-11-093591-8



780110 935911